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United Nations Relief and Works Agency for Palestine Refugees in the Near East

Report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

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Summary

The present report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East provides a description of the activities of the Group in 2016 and a detailed outline of the current financial situation of the Agency. The Working Group unanimously adopted the report at its meeting on 22 August 2016. As in previous reports of the Group, the present report closes with concluding remarks addressed to all Member States.

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I. Introduction

1. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established under General Assembly resolution 302 (IV), and its mandate was most recently renewed by the Assembly in its resolution 68/76.

2. The Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East was established by the General Assembly under resolution 2656 (XXV) to study all aspects of the financing of the Agency.

3. The Working Group consists of the representatives of France, Ghana, Japan, Lebanon, Norway, Trinidad and Tobago, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. It is currently chaired by the Permanent Representative of Turkey, Y. Halit Çevik.

4. At its twenty-fifth session and all sessions that have followed, the General Assembly has considered the reports submitted to it by the Working Group (in 2015, A/70/379) and adopted resolutions relating to UNRWA and the Working Group, taking note with appreciation of the efforts of the Working Group (resolution 70/85).

II. Activities of the Working Group

5. At the first regular session of the Working Group, on 30 June 2016, the Group prepared the present report and was chaired by First Counsellor Makbule Başak Yalçın of Turkey. UNRWA provided an update on the Agency's grave financial situation and the situation in the UNRWA fields of operation. The Working Group met at the expert level on 14 and 26 July and 9 and 16 August and adopted the present report on 22 August, in the presence of the Permanent Representative of Turkey, the Director of the UNRWA Office in New York and the Deputy Director of the Middle East and West Asia Division.

III. Financial situation of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

6. Throughout its history and in the context of the unresolved plight of the Palestine refugee population and its growing needs in a chronically unstable region, UNRWA has been confronted with difficult financial circumstances, in particular persistent shortfalls in funding. These shortfalls have challenged the Agency's ability to fully implement its mandate to provide assistance and protection to registered Palestine refugees, who now number 5.2 million and account for more than 40 per cent of long-term refugees worldwide. As the United Nations body that the international community has entrusted with the primary responsibility to meet their essential needs, and in the light of the Agency's major contribution to the human development of Palestine refugees and its role as a versatile front-line responder in humanitarian emergencies, the Agency faces a cycle of financial crises that requires concerted action.

7. The Agency has made a long-term commitment to its own sustainability through efficient and effective service provisions in its core programmes and humanitarian work. It has recently taken a series of robust measures to achieve even

greater efficiency and impact. In addition, it has rolled out its second resource mobilization strategy, for the period 2016-2018, to frame its engagement with donors and partners. The Working Group underlines that the financial sustainability of UNRWA is a goal that has yet to be secured and must be pursued with renewed energy, amid recent financial crises that have surpassed those of previous years.

8. Recurrent budget deficits are a serious concern for the Agency's donors and hosts, but have, above all, shaken the trust of Palestine refugees in the Agency. The Agency's financial fragility is magnifying refugee concerns about the international community's ability to address their most basic needs in an unstable region. Amid these developments, Palestine refugees affected by conflict in the region have been on the move, joining other populations and seeking refuge in significant numbers in neighbouring countries and, to a lesser extent, in Europe. Their hopes for peace, safety and a meaningful future for themselves and their children have been jeopardized by conflicts and grinding poverty.

9. On 4 August 2015, the Secretary-General submitted to the General Assembly a special report of the Commissioner-General of UNRWA on the financial crisis afflicting the Agency (A/70/272). The report alerted the international community to the fact that the Agency's landmark education programme was at risk in autumn 2015, as a $101 million projected shortfall was threatening to delay the start of the school year for 500,000 UNRWA students unless the gap was bridged during the summer recess. UNRWA embarked on internal and external measures to address the crisis. Senior United Nations and government officials at the highest level became involved to help to bridge the financial gap and ensure access to education for UNRWA students.

10. By late August, some $80 million in additional funding, of which half was from Arab donors, had been pledged against the $101 million shortfall. Responding to the Agency's deficit, Kuwait, Saudi Arabia and the United Arab Emirates contributed a total of $54.8 million to UNRWA in 2015, far exceeding their previous contributions to the programme budget (formerly referred to as the General Fund). Generous contributions from a range of donors allowed UNRWA to maintain operations in 2015 without interruption, but have not altered the Agency's longer-term financial situation.

11. In the margins of the General Assembly's general debate held in September 2015, the Ministers for Foreign Affairs of Jordan and Sweden co-chaired the first meeting on the Agency's financial sustainability. The message was twofold: UNRWA should continue its reform efforts while maintaining the quality of its services; and Member States should endeavour to offer increased, predictable and sustained funding to the Agency.

12. Towards the end of 2015, UNRWA alerted the international community once again to another looming financial crisis in its projected core budget shortfall. Jordan and Sweden co-chaired another meeting at United Nations Headquarters in New York in May 2016 to highlight the importance of ensuring the sustainability of UNRWA.

13. These trends underscore the necessity of the Agency's programme and management reforms, the importance of broadening the donor base and the need to increase the support of Member States in order to place UNRWA on a stable financial footing. The Working Group notes that, as of August 2016, the Agency's financial shortfall in its programme budget stood at $96.5 million, representing

more than 14 per cent of the its cash budget of $668 million for 2016, or equivalent to approximately three months of education services provided to half a million Palestine refugee children.

14. The Agency has developed a medium-term strategy for the period 2016-2021 in consultation with host States and key donors, which will enable it to become even more cost-efficient and cost-effective while delivering high-quality core services to Palestine refugees. The strategy has been endorsed by the Agency's Advisory Commission. Several reforms envisaged in the strategy will improve even further the cost effectiveness of the Agency's programmes while also strengthening its core services. The Agency has made rapid progress with a number of reforms, which were either under implementation or well-advanced by mid-2016. At the same time, the Agency's leadership reports that it has risen to new heights in terms of its financial controls and regulation of all the Agency's budgets, which has contributed to a zero growth budget for 2016, for the first time in 10 years.

15. Contributions to the Agency's emergency appeals are low, particularly with respect to the emergency appeal for the occupied Palestinian territory, which was 36 per cent funded as at 18 August 2016. Financial support for the Agency's major reconstruction projects in Nahr el-Bared and the Gaza Strip has been slow to arrive, despite recent pledges and attempts to revitalize the two projects. The challenges in this respect remain enormous, and the refugees continue to suffer from the impact of extended displacement and acute vulnerability.

16. The Agency's reforms underscore, among other things, the commitment of its leadership to transparency and accountability, in line with the principles of the Grand Bargain on humanitarian financing announced at the World Humanitarian Summit, held in Istanbul in May 2016. The provisions of the Grand Bargain, which calls for an increase in predictable, multi-year and unearmarked funding, would help UNRWA to more efficiently implement its mandate and control or reduce key operating costs. The simplification of stakeholder reporting is also a priority for UNRWA, as it is for the broader United Nations system and Member States, and is addressed in the Grand Bargain.

17. The Agency's work on behalf of Palestine refugees also contributes directly to the broader global effort to achieve the Sustainable Development Goals by 2030. With half a million students enrolled, full gender balance in the Agency's 692 schools and one of the highest literacy rates in the Middle East, it is essential that Palestine refugee children have continuous, uninterrupted access to an inclusive and equitable quality education and that they benefit from lifelong learning opportunities, in accordance with Goal 4.

18. Since it began operations in 1950, UNRWA has been serving Palestine refugees in Gaza and the West Bank, Jordan, Lebanon and the Syrian Arab Republic, with the facilitation and support of host Governments and donors. Currently, its 30,000 staff members provide vital human development services and emergency assistance to the Palestine refugees registered with the Agency, who now number 5.2 million. Palestine refugees have remained among the most vulnerable in their communities and suffer from poverty, rising unemployment rates (especially among youth and women), discrimination in various forms and a general lack of full enjoyment of their human rights. This situation has been worsened as a result of repeated conflicts in the region, most recently in the Syrian Arab Republic since 2011 and in Gaza in 2008-2009, 2012 and 2014.

19. Since 2011, 30 UNRWA staff members have been killed as a result of conflict, and 25 staff remained missing, detained or kidnapped in the Syrian Arab Republic as of July 2016. Those tragic losses are included in the large number of Palestine refugees killed or wounded during the repeated conflicts in the region. Threats and attacks against UNRWA personnel remain a major concern. In order to continue to provide services to Palestine refugees in situations of conflict, UNRWA has been flexible and adapted to the reality on the ground, in particular in its delivery of education in emergencies in the Syrian Arab Republic. The Agency's innovative work in regard to education in emergencies was showcased at the World Humanitarian Summit.

20. The Working Group acknowledges that, in a turbulent region such as the Middle East and in the context of the recent mass refugee movements in the region, UNRWA continues playing a key stabilizing role for the Palestine refugee community and the region. Access to its services, including educational services, influences the decisions of Palestine refugees to remain in situ instead of risking their lives in attempts to reach Europe and elsewhere. It is important to note that the cost of supporting a Palestine refugee through UNRWA is significantly lower than the cost of supporting a refugee in Europe. The importance of effectively maintaining the Agency's services is highly relevant in the context of the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, to be held on 19 September 2016 at United Nations Headquarters.

21. In Gaza, the living conditions of some 1.3 million registered Palestine refugees continue to deteriorate owing to the impact of repeated conflicts and the downward economic spiral experienced since 2000. The operation of the Gaza Reconstruction Mechanism, which was established after the military escalation of July and August 2014 to facilitate the entry of construction material into the Strip in quantities sufficient to ensure that reconstruction needs were met, continues to meet challenges. The closure of Gaza, now entering its tenth year, has had a ruinous effect on the economy. Unemployment rates hover around 40 per cent, reaching up to 60 per cent for young people, and are among the highest in the world, contributing to the extreme dependence of an estimated 80 per cent of the population on international assistance. In 2016, UNRWA alone will provide food assistance to 930,000 Palestine refugees, or half of the total population of Gaza. The Working Group underlines that the closure and access restrictions imposed by the Government of Israel continue to seriously limit the movement of people, goods and services and to increase the financial costs of UNRWA in providing effective humanitarian aid to refugees. The situation has not only hampered economic development, but also contributed directly to high rates of unemployment and food insecurity for refugees. The Working Group is concerned about the extra staffing, transit and logistical costs incurred by the Agency as a result of Israeli closures and security procedures relating to the access and monitoring of all Agency imports into Gaza. Such costs exceeded $8.6 million in 2015. The Working Group stresses that progress is needed to address the overall economic and humanitarian situation in Gaza and underscores the importance of the full implementation of Security Council resolutions 1850 (2008) and 1860 (2009).

22. The Israeli occupation continues to constrain life for the Palestine refugee community, currently numbering some 800,000 persons registered with the Agency's field of operation in the West Bank. Since October 2015, the West Bank has, witnessed a considerable increase in violence, including clashes around refugee

camps and the killings of Palestine refugees, Israeli civilians and Israeli security forces. Demolitions, the displacement of families and settler violence, especially in Area C, have severely affected Palestine refugees. In 2015, 550 demolitions of Palestinian-owned structures without building permits were carried out by the Israeli authorities, displacing 807 people, including 287 Palestine refugees, compared with the 411 refugees so affected in 2014. From the beginning of 2016 to 15 August 2016, the Israeli authorities demolished 762 Palestinian structures. This has displaced at least 1,162 Palestinian men, women and children, including Bedouins. Settlement expansion plans, including for areas of East Jerusalem, have caused great concern for the Palestine refugee community. Israel continued to advance plans for the transfer of some 50 Bedouin communities, populated by a Palestine refugee majority. Movement restrictions imposed by the Government of Israel have had a debilitating effect on the economy of the West Bank. In 2015, the total amount of value-added tax due to the Agency from the Palestinian Authority's Ministry of Finance with respect to services and goods procured for the West Bank and Gaza stood at $90.9 million, slightly below the previous year's all-time high of $96.8 million.

23. In the Syrian Arab Republic, the conflict continues to take a dramatic toll on Palestine refugees, with more than 60 per cent of the estimated 450,000 Palestine refugees remaining in the Syrian Arab Republic having been displaced. Yarmouk has seen some of the most intense fighting between the Syrian regime, opposition groups and designated terrorist groups such as the Nusrah Front and Da'esh. What used to be the economic centre of the Palestine refugee community is now in ruins. It is estimated that only approximately 10,000 Palestine refugees remain in the camp, with the remaining population displaced elsewhere in the Syrian Arab Republic, mainly Damascus. In Khan Eshieh camp, in southern rural Damascus, intense fighting between parties to the conflict involving the indiscriminate use of heavy weapons and airborne munitions continues to endanger the lives of Palestine refugees and to damage and destroy civilian homes. Approximately 60,000 Palestine refugees from the Syrian Arab Republic have fled to Lebanon and Jordan, while others have sought to flee to Europe, often with disastrous consequences. Overall, 95 per cent of Palestine refugees in the Syrian Arab Republic are reliant on UNRWA for assistance. The wider destabilization of the region resulting from the conflict in the Syrian Arab Republic continues to pose major socioeconomic and security concerns for Jordan and Lebanon, who host large numbers of refugees from the Syrian Arab Republic in addition to existing resident populations of Palestine refugees. UNRWA has issued a series of emergency appeals to support the emergency needs of the Palestine refugee population in Jordan, Lebanon and the Syrian Arab Republic.

24. In Lebanon, where UNRWA has registered more than 450,000 Palestine refugees (excluding those who arrive from the Syrian Arab Republic), living conditions have been exceptionally difficult since 1948. The refugees continue to be barred from participating in approximately 40 syndicated professions and face a number of other restrictions, such as a prohibition on owning or inheriting fixed property. Access to government services is restricted. The influx of Palestine refugees from the Syrian Arab Republic has aggravated the dependency situation of the community, which is already suffering from widespread poverty. In this context, the Agency's services are seen as a lifeline for the refugees.

25. In Jordan, which is host to more than 2 million Palestine refugees, living standards are more favourable to that community, despite the fact that many

continue to face hardship and increasing poverty. The rising number of refugees from the Syrian Arab Republic, including some Palestine refugees, creates difficulties for both the host Government and those seeking assistance.

26. Member States contribute to UNRWA through three separate portals, namely, the programme budget, emergency appeals and the project budget.

27. The Agency's core operations are encapsulated in its programme budget, which finances its mandated programme of work, principally in the areas of education, health care and relief and social services. This budget lies at the heart of UNRWA and is the bedrock for all of its activities and programmes.

28. Emergency appeals are special calls on the international community to finance humanitarian needs that have arisen owing to conflicts or situations that have generated sharp declines in the living conditions of Palestine refugees. In early 2016, UNRWA issued two emergency appeals, for the occupied Palestinian territories and the Syrian Arab Republic respectively. The latter includes emergency activities in Jordan and Lebanon for those who have fled the conflict in the Syrian Arab Republic. Funding to UNRWA appeals provides lifesaving and other types of support to people who find themselves in situations of extreme vulnerability.

29. The Agency's project budget includes all other time-bound activities in support of Palestine refugees. Examples include the purchase of medical equipment, the institutional strengthening of UNRWA and the reconstruction of school buildings. One of the Agency's priority projects is the reconstruction of the Nahr el-Bared camp in Lebanon, which was destroyed in 2007, for which UNRWA still required $137 million as of June 2016. Another priority for UNRWA is the reconstruction plan for Gaza, estimated at $720 million, for which $257 million has been pledged thus far.

30. With the exception of 155 international staff positions funded through the regular budget of the United Nations, the Agency's programme budget is financed entirely by voluntary donor contributions.

31. In 2016, despite zero growth in its programme budget, the Agency's finances have remained under extreme pressure owing to a number of factors, as outlined above. UNRWA projects that the demand for services will continue to grow in the medium term, in tandem with a growing Palestine refugee population and against the backdrop of rising operational costs. By 2020, the Palestine refugee population is forecast to reach 6.4 million people.

32. Increasing pressure on the programme budget stems also, to some degree, from requirements from the United Nations system and donors for more due diligence, internal oversight, reporting and evidence-based programming. Further compounding the problem is a lack of working capital. While UNRWA had an average cash balance of approximately $80 million in 2010, it has had virtually no working capital since 2012. UNRWA has also temporarily suspended creditor payments at various times as a result of a shortage of cash, thereby reducing supplier confidence and exposing the Agency to increased legal and financial risks. Every year for the past six years, UNRWA has had to secure donor advances against the following year's donations, which has directly increased the shortfall in subsequent years. At the end of December 2015, the UNRWA programme budget cash balance was $1.8 million, with a monthly cash outflow of $52.5 million, comprising $39.9 million in staff costs and $12.6 million in non-staff costs. This means that UNRWA continues to lack working capital.

33. Locally recruited staff receive salaries considerably lower than those of national staff employed by other United Nations organizations, because, under the Agency's pay policy, local staff are paid against host Government wages in equivalent functions. The Agency's allowances are also lower than those in other United Nations organizations; for example, the Agency's local staff do not receive danger pay in conflict areas. The Agency's pay policy calls for salary surveys to be conducted every two years. In several of the Agency's fields of operation, surveys have not been completed for more than three years, a situation the Agency is addressing this year by conducting salary surveys in all five fields. It is fully expected that changes in host Government salaries will have a financial impact and increase the Agency's staffing costs.

34. The Agency expressed its concern to the Working Group regarding unfunded severance payments to staff, which had been audited at $697.4 million as at 31 December 2015 (an increase of $137.2 million compared with $560.2 million for 2014), given current costs and UNRWA staff regulations and rules.

35. The Working Group welcomes the release of the Agency's medium-term strategy for 2016-2021, which lays out a set of strategic outcomes designed to address the needs of Palestine refugees. Implemented primarily though the programme budget, the strategy is aimed at maximizing the use of its resources and the impact of the Agency's operations in serving refugees. It reaffirms the Agency's commitment to advocating and providing for human development and meeting the protection needs of Palestine refugees. The five outcomes relate to Palestine refugees' rights and protection, health, education, livelihoods and basic human needs.

36. Human rights are universal. The primary responsibility to protect human rights lies with States. For its part, UNRWA contributes to the protection of Palestine refugees when this responsibility is not fulfilled by other actors, both internally, by providing protection in and through its service delivery, and externally, by promoting greater respect for international law, including international humanitarian and human rights law. In accordance with its mandate from the General Assembly, the Agency places a particular emphasis on women, children and persons with disabilities, as well as other vulnerable groups.

37. UNRWA continues to enhance its protection response for Palestine refugees. For example, the Agency recently finalized a child protection framework and signed onto the Charter on Inclusion of Persons with Disabilities in Humanitarian Action, which was adopted at the World Humanitarian Summit in May 2016. Throughout 2016, the Agency will further its efforts to promote the protection of Palestine refugees with a new protection division at headquarters, established to bring about greater consistency and coherence in the Agency's protection activities.

38. UNRWA provides quality and universally accessible primary health care to Palestine refugees. Annually, UNRWA undertakes 9.5 million medical visits in its 143 primary care facilities, which employ more than 3,300 health-care staff. Owing to the increasing lifespans of Palestine refugees, communicable diseases and first-line curative care are no longer the most pressing health challenges; increasing attention is being paid to non-communicable diseases such as diabetes and heart disease, which are the leading cause of death among Palestine refugees and are more difficult and costly to manage and treat.

39. The Agency has implemented a family health team model, which has modernized the way it delivers health care. The model has been rolled out in Gaza, the West Bank, Jordan and Lebanon and will be expanded to the Syrian Arab Republic shortly. This programme seeks to create a health system that is person-centred and reduces operating burdens for medical staff. Additionally, a mechanism to digitize the Agency's clinic system, e-health, is being integrated as a new health systems management tool.

40. The Agency's general education and vocational technical training programmes equip refugees with skills and knowledge that enable them to participate in labour markets or other means to achieve self-reliance and contribute to social and economic development. The Agency provides free primary and preparatory education lasting 9 years across its five fields of operation (with the exception of Jordan, in which it provides 10 years of such education), as well as secondary schooling in Lebanon. The education schemes reach nearly half a million Palestine refugee children through some 692 schools, a number that is increasing on a yearly basis. This is due largely to population growth in Gaza, where the student caseload increases by 8,000 pupils every year.

41. UNRWA has been a pioneer in developing education in emergency programmes, which ensure access to quality education for Palestine refugees living in conflict situations. This has allowed students living in conflict situations to receive psychological support and has ensured their social integration and, most important, the continuation of normal schooling. The programme links emergency and development approaches by addressing the immediate needs of children and facilitating a longer-term durable education system run by the Agency.

42. By promoting and advocating equal access to education, UNRWA has achieved gender equality in its schools. Additionally, UNRWA delivers human rights education in its schools to promote the values of peaceful conflict resolution, respect for human rights and tolerance. The education programme of UNRWA accounts for nearly 54 per cent of its programme budget. It is estimated that the annual cost per pupil is 14 per cent of that spent on pupils in States members of the Organization for Economic Cooperation and Development.

43. Universal literacy among the Palestine refugees is one of the Agency's major achievements. Independent assessments continually place the Agency's education programme high on the scales of quality and efficiency, including in a recent World Bank study, which found that pupils in UNRWA schools outperform the pupils in national school systems in its fields of operation by a year.

44. Health, education and employment are essential to enhancing the livelihoods of Palestine refugees. UNRWA supports employment through guidance counselling, labour-market studies and awareness programmes that promote education after school. The Agency operates its technical and vocational education and training programme in nine vocational training centres in five fields of operation (Jordan, the West Bank, Gaza, Lebanon and the Syrian Arab Republic). Between 2010 and 2014, approximately 20,000 students graduated from the centres, which help to reduce poverty within the Palestine refugee community. Reduced employment opportunities have been a major factor contributing to increased poverty and loss of dignity for Palestine refugees. Without proper funding, the Agency will see an increase in poverty and the number of unserved poor.

45. UNRWA also offers microfinance services through two separate channels: the microfinance programme and the microcredit community support programme. Those initiatives seek to ensure that Palestine refugees, including women and those in abject poverty, have access to microcredit and complementary financial services. They offer Palestine refugees access to funding to sustain strong and self-sufficient livelihoods.

46. UNRWA seeks to address both material needs, such as food, shelter and environmental health, and the broader set of human needs associated with human development. The mitigation of poverty and concomitant improvements in human development are difficult to achieve if there is a high prevalence of persons and families who cannot meet their basic needs of nutrition, shelter and environmental health. UNRWA promotes a decent standard of living through various programmes such as cash and food assistance, microfinance services and job creation. The social safety net programme was designed in 2013 to address the food insecurity of refugees living in poverty and abject poverty through food and cash assistance.

47. Reacting to the Agency's financial crisis in 2015, the Commissioner-General issued a special report (A/70/272) explaining the dire situation in which the Agency found itself. He also underlined that a suspension of the education programme would hamper children's enjoyment of their right to education and expose vulnerable children and young people to additional risk that could contribute to instability in the Palestine refugee community at a time of great turbulence in the Middle East. Thanks to generous donors, UNRWA was able to fill its financial gap. In this context, UNRWA committed to continuing to implement significant measures to achieve financial sustainability for the Agency.

48. In 2015, UNRWA also increased the potential ceiling for the maximum number of children per UNRWA classroom to 50. The Agency reduced substantially the number of international personnel on non-staff contracts funded by the Agency and imposed a hiring freeze for all jobs not critical to the delivery of core services. Stringent cost controls have been put in place and are reinforced by management measures to mitigate the budgetary impact on cost drivers. The combination of these management measures have generated savings of $15 million in 2015 and $18 million in 2016 and include an elective workforce reduction initiative through early retirement and a voluntary separation package.

49. In tandem with these measures, the Agency has put in place stringent financial and budgetary controls. Hedging donor funds has generated a $16 million income gain in 2016 and presents a new approach to financial management, including risk management. In addition, UNRWA has achieved savings of $16 million in its area staff pension fund through improved tracking of market movements, at a time when funds managed by other institutions have suffered losses. The Agency has also managed to save $300,000 annually by successfully renegotiating investment transaction fees.

50. In addition, the Agency has embarked on several programmatic reforms that will improve the quality of or access to its services for the most vulnerable and marginalized refugees. Although the motivation for those reforms is not purely financial, they will provide a more cost-effective response.

51. One of the Agency's key reforms, in line with the World Humanitarian Summit, was to move from "food to cash", which the Agency has done in 2016 in

Jordan, Lebanon and the West Bank. E-cards are being distributed for some 160,000 eligible refugees as part of the new social safety net programme supporting the poorest Palestine refugees in those areas. The Working Group supports this shift in policy, which empowers refugees by enabling them to make their own choices and injects resources into local communities. The Group also notes the reduction in logistical and support costs resulting from this reform. UNRWA appreciates the support of host Governments for the new system and hopes it will help to mobilize more resources and reach a larger number of food-insecure refugees. The Agency also allotted approximately 50 per cent of its total humanitarian expenditure towards cash-based programming in 2015 and plans to expand the use of cash in its emergency response in the future.

52. Moreover, amendments to the Agency's hospitalization policy were implemented, which will help to streamline the Agency's approaches in its fields of operation and improve sustainability while ensuring that access for the most vulnerable is preserved. The tensions those amendments generated in early 2016 in Lebanon, which has recently absorbed in excess of 50 per cent of the Agency's entire hospitalization budget, have been overcome through intensive consultations with partners on the ground.

53. Other programmatic reforms undertaken by the Agency include the adjustment of its pioneering technical and vocational training programme to increase livelihood and job opportunities for students and graduates and the digitization of its health programme to reduce the burden on medical staff Agency-wide. UNRWA is also exploring a partnership with a lead medical institution in Jerusalem to cooperate in the delivery of secondary care in the Agency's Qalqilia hospital and expanding into critical areas such as cancer treatment, enabling UNRWA to focus on its core primary health-care work.

54. UNRWA is also proceeding with the internal transformation of its microfinance programme, which will expand credit outreach without raising running costs while upholding high standards of oversight, transparency and accountability.

55. The Working Group compliments UNRWA on its achievements in providing effective emergency assistance to Palestine refugees affected by conflict in the Middle East. Since the outbreak of the second intifada in 2000, UNRWA has provided emergency assistance to Gaza and the West Bank, funded through the emergency appeal for the occupied Palestinian territories. In Lebanon, Jordan and the Syrian Arab Republic, UNRWA has provided emergency assistance since June 2012 as part of the Syria Humanitarian Assistance Response Plan and the Syria Regional Response Plan, funded through the emergency appeal for the Syrian Arab Republic. The emergency appeals cover nine critical sectors: food assistance; cash assistance; job creation; community mental health; education; health; temporary shelter and shelter repair; water and sanitation; and protection.

56. For 2016, $403 million is required to cover the cost of interventions for the emergency appeal for the occupied Palestinian territories and $414 million for the emergency appeal for the Syrian Arab Republic — amounts similar to the budgetary requirements in 2015. In 2015, shelter ($127 million), food assistance ($129 million) and emergency cash-for-work ($84 million) represented the largest needs in Gaza and the West Bank, whereas cash assistance ($249 million) represented nearly 60 per cent of the budget for Palestine refugees under the Syrian appeal.

57. While the generosity of donors must be recognized, UNRWA was able to meet only less than half of the identified emergency needs in 2015. As at 18 August 2016, the emergency appeal for the occupied Palestinian territories was facing a shortfall of $259 million (with $144 million pledged, or 36 per cent of the requested amount), and the Syrian emergency appeal was also facing a significant shortfall, of $253 million (which means it was 39 per cent funded). The lack of funding has led UNRWA to scale back the amount and frequency of cash assistance distributed to Palestine refugees in the Syrian Arab Republic and housing assistance for Palestine refugees from that country who have been displaced to Lebanon and Jordan. The required total for cash assistance for the Syrian emergency appeal amounts to $254 million, of which only $54.6 million has been pledged.

58. Since 2001, UNRWA has witnessed an increase in the need for emergency aid to Palestine refugees in the occupied Palestinian territories. Repeated cycles of conflict in Gaza and a deteriorating situation in the West Bank have contributed to a general increase in the needs of Palestine refugees. The situation has also resulted in an increase in the Agency's emergency delivery of basic humanitarian services, livelihood support and sustainable income-generation activities. In 2015, Palestine refugees across the occupied Palestinian territories faced continued Israeli occupation, the expansion of settlements, repeated human rights abuses and recurring escalations of violence and hostilities.

59. Ongoing restrictions by the Government of Israel on movement within and access to the West Bank by Palestinians, including those in East Jerusalem, continue, together with the demolition of Palestinian structures, with significant repercussions on Palestinian economic development. Many Palestinians in the West Bank, including Palestine refugees, remain at risk of displacement and dispossession and contend with high levels of insecurity due to the Israeli occupation. Almost one in four Palestine refugees in the West Bank are food-insecure, and approximately 200,000 are in need of assistance to meet basic food needs. UNRWA has therefore developed strategic objectives within the emergency appeal to address this alarming situation, focusing on the following: increased economic access to food for food-insecure households and those facing acute shocks; crisis-affected refugees' enjoyment of their basic rights to services; the protection of Palestine refugees from the effects of conflict and violence; and the effective management and coordination of emergency responses. In the West Bank, UNRWA will now prioritize livelihood support, sustainable income-generation activities and the delivery of key humanitarian activities, particularly in communities at risk of displacement, in Area C, East Jerusalem and the seam zone.

60. The emergency appeal for the Syrian Arab Republic is based on three major strategic priorities aimed at implementing change and providing services for the 450,000 Palestine refugees who remain in the Syrian Arab Republic and are particularly affected by the violence and conflict raging throughout the country, as well as the 60,000 Palestine refugees who have fled to Jordan and Lebanon. Those priorities are: (a) preserving the resilience of vulnerable families through the provision of humanitarian assistance; (b) providing a protective framework for Palestine refugees and helping to mitigate their vulnerability; and (c) strengthening humanitarian capacity, coordination and management. UNRWA has been innovative in its efforts to adapt existing development programmes to the new realities created by the conflict. It has been able to continue its education programme for Palestine refugees during the crisis. Owing to the instability in the country, of the pre-conflict

total of 118 UNRWA schools, 34 have been fully or partially damaged, and, as of April 2016, only 44 were open. However, 12 UNRWA schools operate as collective centres for more than 2,500 internally displaced persons, and the Agency is temporarily using 55 government school buildings in afternoon shifts to continue to deliver education services to Palestine refugee children, which is essential, given the potential risk of a five-year suspension of educational services for some of the children. As of April 2016, UNRWA was able to run 99 schools in total in the Syrian Arab Republic, which were attended by more than 45,000 students.

61. UNRWA has also introduced a large-scale cash assistance programme — one of the largest in any conflict setting in the world — and is currently reaching approximately 430,000 refugees during each distribution cycle. Each cycle requires approximately 8 weeks to reach the complete caseload. UNRWA has been able to distribute only three times in total for 2014 and 2015 owing to funding shortages.

62. The funding for the Agency's emergency assistance in the Syrian Arab Republic is important for the estimated 450,000 refugees remaining in the country, some 280,000 of whom are internally displaced and in need of humanitarian assistance. The funding is necessary for a wide range of humanitarian assistance, including health services, infrastructure and camp improvement, protection, safety and security, education services and general support. In 2016 alone, 95 per cent of the Palestine refugees in the Syrian Arab Republic are in need of sustained humanitarian assistance. Unfortunately, a general lack of funding and increasing donor fatigue have endangered some of the Agency's most important emergency programmes. In 2016, a total amount of $58 million will be required for food assistance in the Syrian Arab Republic, and a total of $200 million will be required for cash assistance (for essential needs, including food, shelter and non-food items). With regard to the aid given to Lebanon and Jordan for the 60,000 Palestine refugees from the Syrian Arab Republic, $52.8 million will be required for cash assistance, representing 60 per cent (Lebanon) and 84 per cent (Jordan) of the total needs in each country.

63. The Working Group recognizes that projects are an integral aspect of the work of UNRWA. The project budget seeks to provide the necessary technical assistance and meet the infrastructure requirements for the overall operations of UNRWA. It includes all funding not captured in the programme budget and the emergency appeals.

64. The principal aim of the project budget is to upgrade the capacity of the Agency to achieve its main objectives and deliver services more effectively. Its priorities include the expansion and upgrading of education and health infrastructure, methods to maximize economic potential and employment opportunities, camp infrastructure development, enhancements to system managements, adherence to host authorities' standards and the provision of necessary support for vulnerable groups.

65. The project budget has traditionally focused mainly on the construction and upgrading of UNRWA facilities in order to meet the needs of the growing Palestine refugee population, prevent the deterioration of ageing installations and ensure the delivery of high-quality services to Palestine refugees. Project funding is also required to deliver on reform initiatives under the medium-term strategy, which are designed to improve the quality, efficiency and effectiveness of the Agency's services. The 58 official Palestine refugee camps have been transformed from "tent

cities" into congested masses of multistorey buildings defined by poverty and extreme overcrowding. When fully funded, the project budget seeks to contribute, inter alia, to better living conditions.

66. The funding allocated for the project budget in 2015 was $210 million. As for the 2016 project budget, of the total requirements of $695 million, $147 million had been pledged by donors as of August 2016.

67. UNRWA brought to the Working Group's attention the specific situation of two of the Agency's major projects, owing to their scale and ongoing funding crises, which continue to affect thousands of Palestine refugees long after their displacement.

68. One of the Agency's priority projects is the reconstruction of Nahr el-Bared camp, which was destroyed in the fighting in Lebanon in 2007 and left 27,000 people displaced. The total amount needed for the reconstruction of the camp is $345 million. As of June 2016, firm pledges totalled $208 million. The balance of $137 million, or 40 per cent of the total amount required, must be raised urgently to complete the remaining work. More than 12,000 people remain displaced. A failure to complete this project, one of the Agency's largest to date, would be a major blow to the stability of the Tripoli area in northern Lebanon.

69. Beginning in 2013, as a result of the anticipated shortfalls in available funding, UNRWA implemented a series of measures to reduce the costs associated with relief assistance for Nahr el-Bared camp. This was achieved through the introduction of new vulnerability-based eligibility criteria and a targeted approach to the provision of relief support services to displaced residents of Nahr el-Bared. The measures went into effect on 1 September 2013 and have been carried forward. They include the completion of the process of harmonizing health coverage for displaced camp residents, in line with the provision of health-care services for all other Palestine refugees in Lebanon in 2015. The Nahr el-Bared relief services budget was reduced from $18.8 million in 2010 to $8.7 million in 2014 owing to cost-cutting measures taken in response to the shortfalls in funding. The estimated budget for 2015 was further reduced to $5.3 million.

70. As a result of the collapse of funding following the 2015 Nahr el-Bared relief appeal, which received just over $2 million from two donors, rental cash subsidies were prioritized in the early part of the year and other activities suspended, as described in the appeal. In the latter part of the year, a decision was made to scale back the level of rental cash subsidies paid in the third quarter from $450 to $300 per family and to suspend payments indefinitely starting in the fourth quarter. UNRWA continues to be concerned about the humanitarian needs of the remaining displaced residents of Nahr el-Bared. In particular, more than 600 Palestine refugee families reside in deplorable environmental health conditions and temporary shelters located in areas adjacent to the camp. While the Agency tries to maintain those shelters as best it can with the minimal programme budget funds available, additional support is required to ensure that these families can live in dignity while they await more sustainable housing.

71. Following the intense conflict of 2014 in Gaza and previous cycles of violence, UNRWA contributed to the rebuilding of demolished homes, livelihoods and infrastructure in an effort to provide protection and services for the Palestine refugees affected by the violence. During the conflict, 118 UNRWA installations

were damaged, including 83 schools and 10 health centres. More than 12,600 housing units were completely destroyed, and almost 6,500 sustained severe damage; of these, 9,117 shelters belonging to Palestine refugees were completely destroyed and 5,417 were severely damaged. A total of 130,000 additional housing units sustained various degrees of damage but remained inhabitable. The conflict led to a displacement crisis in Gaza, with 500,000 persons displaced at its peak. Thousands remain displaced.

72. As of June 2016, $247 million had been pledged in support of the Agency's reconstruction programme, for which an estimated $720 million was required. This left a shortfall of $473 million. Although the Agency remains committed to completing its reconstruction efforts, it urgently needs new funding to continue its work in this area. The Working Group regrets that important sums pledged at the Cairo conference in October 2014 — $3.5 billion in total — have still not been disbursed by donors.

73. While the Working Group commends UNRWA for its successful internal measures to reduce costs, putting the Agency in the best position to serve refugees efficiently and effectively, those measures alone cannot bridge the shortfall UNRWA is facing. Conversely, the Agency's donors must ensure continuity and predictability in their financial contributions to the Agency. Multi-year funding and reduced earmarking, as foreseen in the Grand Bargain on humanitarian financing, would also facilitate the Agency's financial management. What is required overall is that core donors at a minimum maintain — and, if feasible, increase — their contributions; partnerships with former donors be restored; and further efforts be made to reach out to emerging and regional partners as potential pillars of the Agency's core services to Palestine refugees.

74. UNRWA itself has developed a new resource mobilization strategy in 2016 in order to deliver on its mandate to assist and protect Palestine refugees in all five fields of operation for the next three years, from 2016 to 2018. It outlines five goals: providing the requisite funding through more effective and efficient resource mobilization; strengthening traditional donor partnerships; diversifying the donor base, which increasingly contributes to resource needs; enabling environments to establish improved donor relationship management; and securing the safety of working capital and staff. The resource mobilization strategy complements the medium-term strategy and addresses the manner in which the Agency can best obtain the resources necessary to ensure those outcomes by maintaining — or increasing, where possible — contributions from core donors. The strategy puts forth internal measures aimed at increasing clarification for Member States and other donors as to the allocation of the funds that they provide for the Agency.

75. Noting the important progress made by UNRWA in diversifying its donor base (income from non-traditional donors amounted to $18.8 million in 2015), the Working Group supports the Agency's efforts to develop new partnerships with international institutions, such as the World Bank, and the private sector. Hosts, donors and the wider international community have key roles to play in maintaining, strengthening and harmonizing the Agency's goals in its five fields of operation. UNRWA will also continue to be active in obtaining support from its international donor base through programmes such as the Junior Professional Officer programme, which currently provides 21 Junior Professional Officer positions for the Agency, both at headquarters and in field offices. The Working Group requests current and

future donors to explore and develop further non-traditional methods of supporting UNRWA.

76. States hosting Palestine refugees also have a major role to play in supporting the Agency's operations and outreach activities. The Working Group welcomes the valuable support of the Secretary-General, both with Member States and in pursuit of partnership opportunities. An expansion of the donor base would provide mutual benefits for the Agency and new donors. It would increase the Agency's access to influential networks while sharing expertise with new donors and increasing their visibility in the field.

IV. Conclusions and recommendations

77. First, the Working Group would like to thank all Member States, donors and hosts who have been supporting the work of UNRWA since its establishment and who have contributed to the well-being of the vulnerable Palestine refugee community.

78. The Working Group reiterates that the humanitarian problems faced by Palestine refugees today must be addressed as a shared international responsibility pending a just and durable solution of the Palestine refugee question, in accordance with international law, including the relevant resolutions of the United Nations.

79. The Working Group expresses its serious concern about the large funding gap affecting the Agency's programme budget in 2016 and reiterates that it is, above all, the responsibility of the General Assembly and the international community to ensure that the Agency's services are maintained at an acceptable level, that the Agency can fulfil its mandate, in quantitative and qualitative terms, and that funding keeps pace with the requirements of the Agency to meet the growing needs of the refugee population. The Working Group is concerned about the possible destabilizing impact that the lack of funding for UNRWA may have on the region, as well as that of further unpopular austerity measures at a time when the Middle East is already facing crises of various intensities.

80. The Working Group welcomes the resource mobilization strategy for the period 2016-2018 and the medium-term strategy for 2016-2021 and would like to extend its support for the achievement of their goals and outcomes. It also welcomes the Agency's far-reaching reforms, as described in the present report, but acknowledges that the current reforms in themselves will not be sufficient to solve the problems relating to the Agency's deficit.

81. The Working Group expresses serious concern about the situation of Palestine refugees in the Syrian Arab Republic. The Working Group calls upon all parties to the conflict to ensure the sustained, regular and continuous provision of humanitarian supplies, notably food and medicine, to besieged and hard-to-reach areas, including Yarmouk and Khan Eshieh. It also appeals to all parties to the conflict to preserve the neutrality of the Palestine refugee community in the country. It condemns all forms of violence against that vulnerable community and encourages the international community to fund, to the greatest extent possible, the requirements laid out in the emergency appeal to support the Palestine refugees within the Syrian Arab Republic and those who have fled from that country to Lebanon and Jordan.

82. Similarly, the Working Group is extremely concerned about the suffering of Palestine refugees living in the occupied Palestinian territories, where continued restrictions on the movement of UNRWA staff and humanitarian goods, a general decline in socioeconomic conditions and repeated conflicts have heightened the community's distress. It calls upon the Government of Israel to grant the Agency free and unfettered access to the territories. The Working Group calls for the lifting of restrictions imposed on Gaza and the easing of access restrictions. The Working Group supports the further opening of Gaza crossings to allow for an unimpeded flow of humanitarian aid, commercial goods and persons to and from Gaza, in line with Security Council resolutions 1850 (2008) and 1860 (2009). It urges all potential donors, whether traditional or non-traditional, to redouble their efforts to fully respond to the Agency's emergency appeal for the occupied Palestinian territories for 2016.

83. The Working Group commends the Commissioner-General and all of the Agency's staff for their tireless efforts to maintain the regular and emergency services of the Agency under very difficult operational circumstances. The Working Group deplores the deaths of 30 UNRWA staff since 2011 due to conflict-related violence and expresses its concern for the 25 UNRWA employees missing, detained or kidnapped in the Syrian Arab Republic.

84. The Working Group is also alarmed by the inadequate levels of funding for the reconstruction of Nahr el-Bared camp in Lebanon, the Agency's largest project to date, and for the reconstruction needs in Gaza that arose following the Gaza conflict of 2014. The Working Group calls upon all donors, including countries in the Middle East, to lend their full support to these two priority projects for the Agency and stresses that failure to do so could have serious consequences for the security of Palestine refugees and the stability of the region. It also calls on Member States to consider funding other important projects that the Agency prioritizes.

85. The Working Group encourages the General Assembly to keep the Agency's programme budget for the biennium 2018-2019 under review so as to ensure that the Agency is not further affected in its ability to deliver vital services to Palestine refugees. In this regard, the Working Group calls upon the Assembly to continue to support the strengthening of the Agency's management capacity, pursuant to the 2009 report of the Secretary-General on this issue (A/65/705). The Working Group reiterates its serious concern that, if adequate resources are not provided to the Agency, both the achievements from the comprehensive reforms and the capacity of UNRWA to fully implement its mandate will be in jeopardy. The Working Group expresses the hope that the international support for UNRWA embodied in the relevant resolutions adopted each year by the Assembly, in which the Assembly recognizes the importance of the work of the Agency, will be translated into increased financial support by a broader base of Member States and other donors in order to ensure the continuation of the work of the Agency on a sound financial basis.

86. The Working Group strongly urges all Governments to bear in mind the foregoing considerations when deciding upon the level of their contributions to UNRWA for 2016. The Working Group once again:

(a) Urges all Governments to increase their contributions to the Agency when possible, and to contribute to the Agency's three funding portals, as described in the present report, while taking into account the primary importance of fully funding its programme budget. Government contributions should keep pace with the

requirements of the Agency to meet the growing needs of the Palestine refugee population and take into account the effects of inflation and other factors driving the costs of providing services;

(b) Urges all Governments to provide unearmarked multi-year funding, make sustained and predictable contributions to UNRWA in line with the recommendations made at the World Humanitarian Summit and disburse their contributions early in the year when feasible. This type of support allows UNRWA to better plan its activities;

(c) Commends UNRWA for the measures it has taken to increase its efficiency while maintaining the quality of services for Palestine refugees, supports the continued implementation of those measures and stresses that they must be accompanied by strong financial support from Member States to sustain the Agency's efforts in this regard;

(d) Thanks the Governments that have traditionally shown generosity towards Palestine refugees and UNRWA, including major donors and Gulf Cooperation Council partners, and urges them to make all possible efforts to maintain — or increase, when possible — their funding to UNRWA;

(e) Encourages all Member States to positively consider the report of the Secretary-General (A/67/365) and all resolutions relating to the financing of UNRWA with a view to addressing recurring budget deficits and sufficiently supporting the Agency's vital work.

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Item 74 (b) of the provisional agenda*
Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Actions taken by States and regional fisheries management organizations and arrangements in response to paragraphs 113, 117 and 119 to 124 of General Assembly resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of General Assembly resolution 66/68 on sustainable fisheries, addressing the impacts of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks

Report of the Secretary-General

Summary

The present report has been prepared pursuant to paragraph 164 of General Assembly resolution 69/109, in which the Assembly requested the Secretary-General, in cooperation with the Food and Agriculture Organization of the United Nations, to report to the General Assembly at its seventy-first session on the actions taken by States and regional fisheries management organizations and arrangements in response to paragraphs 113, 117 and 119 to 124 of resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of resolution 66/68, in order to facilitate the further review of the actions taken referred to in paragraph 162 of resolution 69/109.

The report is a follow-up to earlier reports prepared by the Secretary-General (A/61/154, A/64/305 and A/66/307). It should also be read in conjunction with earlier interim reports of the Secretary-General on the measures taken by States and regional fisheries management organizations and arrangements to implement resolution 61/105 (A/62/260, paras. 60-96, and A/63/128, paras. 63-78).

* A/71/150.

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Contents

		Page
	Abbreviations	3
I.	Introduction	4
II.	Overview of the impacts of bottom fisheries on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks	5
	A. Vulnerable marine ecosystems: an updated review	5
	B. Deep-sea fish stocks	11
	C. Impacts of bottom fishing on vulnerable marine ecosystems and deep-sea fish stocks	12
III.	Actions taken by States and regional fisheries management organizations and arrangements to address the impacts of bottom fisheries on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks	15
	A. Actions taken by regional fisheries management organizations and arrangements with competence to regulate bottom fisheries	15
	B. Actions taken by States to regulate bottom fisheries	25
	C. Actions taken by States and competent regional fisheries management organizations and arrangements in cooperating to undertake marine scientific research, collect and exchange scientific and technical data and information and develop or strengthen data-collection standards, procedures and protocols and research programmes	30
	D. Recognition of the special circumstances and requirements of developing States	32
IV.	Activities of the Food and Agriculture Organization of the United Nations to promote the regulation of bottom fisheries and the protection of vulnerable marine ecosystems	33
V.	Concluding remarks	34

Abbreviations

CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CM	Conservation measure
CMM	Conservation and management measure
FAO	Food and Agriculture Organization of the United Nations
GFCM	General Fisheries Commission for the Mediterranean
ICES	International Council for the Exploration of the Sea
NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission
NPFC	North Pacific Fisheries Commission
RFMO	Regional fisheries management organization
RFMO/As	Regional fisheries management organizations and arrangements
SEAFO	South East Atlantic Fisheries Organization
SIOFA	Southern Indian Ocean Fisheries Agreement
SPRFMO	South Pacific Regional Fisheries Management Organisation
UNEP	United Nations Environment Programme
VMEs	Vulnerable marine ecosystems

I. Introduction

1. The first global integrated marine assessment or first World Ocean Assessment[1] notes that, although no global assessment has been carried out on the extent of benthic impacts, the documented widespread extent of deep-water trawl fisheries in different regions and maritime zones has led to pervasive concern for the conservation of fragile benthic habitats. On seamounts where trawling has been discontinued, little regeneration is observed even after 5 to 10 years and recovery may require centuries to millennia.[2] That highlights the need for continued action to protect vulnerable marine ecosystems (VMEs).

2. Within the framework of the United Nations Convention on the Law of the Sea and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations Fish Stocks Agreement), a number of actions have been taken by States and regional fisheries management organizations and arrangements (RFMO/As), inter alia, to address the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks.

3. The continuous need to achieve sustainable fisheries and protect and manage marine ecosystems has also been underlined in a number of important outcomes in recent years, including in the outcome document of the United Nations Conference on Sustainable Development, "The future we want",[3] the 2030 Agenda for Sustainable Development,[4] including Sustainable Development Goal 14, and the recommendations of the resumed Review Conference on the United Nations Fish Stocks Agreement (see A/CONF.210/2006/15, annex, A/CONF.210/2010/7, annex, and A/CONF.210/2016/5 (forthcoming)). Also of relevance are decisions of the parties to the Convention on Biological Diversity.[5] Many of those outcomes include specific commitments by States to protect VMEs from destructive fishing practices and ensure the long-term sustainability of deep-sea fish stocks.

4. The General Assembly considered the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks and called on States and RFMO/As to take a number of actions in that regard in 2006.[6] Since then, it has conducted reviews of actions taken by States and RFMO/As in response to its relevant resolutions on sustainable fisheries in 2009 and 2011.

5. In resolution 69/109, the General Assembly recalled its decision in paragraph 137 of resolution 66/68 to conduct a further review of the actions taken by States and RFMO/As in response to paragraphs 113, 117 and 119 to 124 of resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of resolution 66/68, with a view to ensuring effective implementation of the measures therein and to make further recommendations, where necessary. It recognized the value of preceding

[1] The General Assembly welcomed the assessment and approved its summary (A/70/112) in resolution 70/235. For the complete text of the assessment, see www.un.org/depts/los/global_reporting/WOA_RegProcess.htm.

[2] See World Ocean Assessment I, chap. 51.

[3] General Assembly resolution 66/288, annex.

[4] General Assembly resolution 70/1.

[5] See decisions IX/20 and X/2.

[6] See General Assembly resolution 61/105.

such a review with a two-day workshop, as in 2011, and decided to conduct such a review in 2016. In resolution 70/75 of 8 December 2015, the Assembly requested the Secretary-General to convene the two-day workshop on 1 and 2 August 2016 in order to discuss implementation of the above-mentioned paragraphs of resolutions 64/72 and 66/68.

6. Following the adoption of resolution 69/109, requesting the Secretary-General to report to the General Assembly at its seventy-first session, the Secretary-General requested States and regional economic integration organizations and RFMO/As to submit detailed information. The Food and Agriculture Organization of the United Nations (FAO) was also requested to provide information.

7. In response, submissions were received from 11 States (Australia, Bulgaria, Canada, Chile, Iceland, Iraq, New Zealand, Norway, Oman, Philippines and the United States of America), the European Union, FAO[7] and 8 RFMO/As.[8] The present report is based on the information provided and information contained in the responses to the request circulated in connection with the preparation of the report of the Secretary-General to the resumed Review Conference on the United Nations Fish Stocks Agreement (A/CONF.210/2016/1). The Secretary-General wishes to express his appreciation for the submissions.

II. Overview of the impacts of bottom fisheries on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks

8. The present section provides an update of the sections of previous reports of the Secretary-General on the actions taken to address the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks. It should also be read in conjunction with the World Ocean Assessment, which also provides detailed information on deep-sea ecosystems, including specific habitats that can constitute VMEs, such as cold-water corals, hydrothermal vents and cold seeps, as well as on marine biological diversity and biological communities on seamounts and other submarine features potentially threatened by disturbance.[9]

A. Vulnerable marine ecosystems: an updated review

9. Previous reports of the Secretary-General have detailed the scientific advances which have been made in the understanding of habitats that may contain VMEs, including seamounts, hydrothermal vents, cold-water coral habitats and sponge

[7] The contribution of FAO is summarized in section IV below.

[8] CCAMLR, NAFO, NEAFC, NPFC and SEAFO. The International Commission for the Conservation of Atlantic Tunas, the North Atlantic Salmon Conservation Organization and the North Pacific Anadromous Fish Commission reported that they did not regulate bottom fisheries and/or did not have the mandate to do so. In addition, reference information was provided informally by the General Fisheries Commission for the Mediterranean (GFCM).

[9] See in particular, chapters 36F, 42, 45 and 51.

grounds.[10] The following section provides an updated review of those habitats, as well as additional information regarding other potential VMEs.[11]

1. Seamounts[2]

10. Over the last five years, there has been progress in understanding how seamount ecosystems are structured and function. While some seamounts do not contain VMEs, the expansion of seamount exploration has identified VMEs in new regions, as well as completely novel VMEs, such as the crinoid aggregations on the Admiralty Seamount.[12]

11. Past studies suggesting that seamount communities comprise a high proportion of endemic species remain largely unsupported (see A/66/307, para. 9). However, exploration of seamounts in more remote areas, such as the Southern Ocean and South-West Indian Ocean, have revealed novel communities or species.[13,14,15] The high variability of seamount communities across regions, within regions and even between adjacent seamounts presents a significant management challenge for deep-sea fisheries.[16]

2. Canyons

12. Submarine canyons are incisions into the continental shelf and slope and act as conduits for sediment and other materials from continents into the deep-sea. Canyons can be localities of enhanced biomass and a diversity of benthic and pelagic organisms, including aggregations of large megafauna, such as cetaceans,[17]

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[10] As previously reported, the vulnerability of an ecosystem is related to the likelihood that one or more components (i.e., population, community or habitat) will experience substantial alteration owing to short-term or chronic disturbance and the likelihood that it will recover, and in what time frame. The most vulnerable ecosystems are those that are both easily disturbed and very slow to recover, or may never recover.

[11] Due to the scarcity of data regarding VMEs on the high seas, this section also extrapolates from scientific research conducted in areas within national jurisdiction.

[12] See David A. Bowden and others, "A lost world? Archaic crinoid-dominated assemblages on an Antarctic seamount", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 58, Nos. 1-2 (January 2011).

[13] See Rhian G. Waller, Kathryn M. Scanlon and Laura Robinson, "Cold-water coral distributions in the Drake Passage area from towed camera observations — initial interpretations", *PLOS ONE*, vol. 6, No. 1 (January 2011).

[14] See Joana Xavier, Inês Tojeira and Rob van Soest, "On a hexactinellid sponge aggregation at the Great Meteor seamount (North-east Atlantic)", *Journal of the Marine Biological Association of the United Kingdom*, vol. 95, No. 7 (July 2015).

[15] See Jon Thomassen Hestetun, Hans Tore Rapp and Joana Xavier, "Carnivorous sponges (Porifera, Cladorhizidae) from the Southwest Indian Ocean Ridge seamounts", *Deep-Sea Research Part II: Topical Studies in Oceanography* (March 2016).

[16] Thomas A. Schlacher and others, "Seamount benthos in a cobalt-rich crust region of the central Pacific: conservation challenges for future seabed mining", *Diversity and Distributions*, vol. 20, No. 5 (May 2014).

[17] Fabio C. De Leo and others, "Submarine canyons: hotspots of benthic biomass and productivity in the deep sea", *Proceedings of the Royal Society of London B: Biological Sciences*, vol. 277, No. 1695 (September 2010).

and VMEs, such as cold-water coral communities.[18,19,20,21,22,23,24] Entire canyon systems may be regarded as VMEs and several have been protected from fishing within areas under national jurisdiction.

3. Chemosynthetic communities[25]

13. Several island-like habitats in the deep-sea host biological communities that are based largely on chemosynthetic primary production, including hydrothermal vents and cold seeps.

14. Hydrothermal vents generally occur below the depths of deep-sea fishing in extremely rugged terrain (see A/64/305, paras. 18-20, and A/66/307, paras. 11 and 12). The use of multibeam sonar to map mid-ocean ridges and deep-submergence technologies, such as remotely operated vehicles, has led to increased understanding of the distribution of hydrothermal vents.

15. New vent observations, such as those at polar latitudes, have resulted in the discovery of many new species of vent-endemic fauna and an improved understanding of the regional organization of vent fauna.[26] The connectivity of populations is an important consideration in assessing the risks from human activities to vent ecosystems.

16. There is evidence that seeps within exclusive economic zones have been damaged by fishing (for example, Hikurangi Margin in New Zealand[27] and Hecate Strait in Canada[28]) (see also A/66/307, para. 13). Although seeps occur mainly along continental margins within those zones, they are also found in the high seas. At present, there is no understanding of the capacity of such ecosystems to recover from bottom-fishing impacts.

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[18] Lies De Mol and others, "Cold-water coral habitats in the Penmarc'h and Guilvinec Canyons (Bay of Biscay): deep-water versus shallow-water settings", *Marine Geology*, vol. 282, Nos. 1-2 (March 2011).

[19] Veerle A. I. Huvenne and others, "A picture on the wall: innovative mapping reveals cold-water coral refuge in submarine canyon", *PLOS ONE*, vol. 6, No. 12 (December 2011).

[20] Robert J. Miller and others, "Structure-forming corals and sponges and their use as fish habitat in Bering Sea submarine canyons", *PLOS ONE*, vol. 7, No. 3 (March 2012).

[21] A. Gori and others, "Bathymetrical distribution and size structure of cold-water coral populations in the Cap de Creus and Lacaze-Duthiers canyons (northwestern Mediterranean)", *Biogeosciences*, vol. 10, No. 3 (March 2013).

[22] Kirsty J. Morris and others, "Distribution of cold-water corals in the Whittard Canyon, NE Atlantic Ocean", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 92 (August 2013).

[23] Sandra Brooke and Steve W. Ross, "First observations of the cold-water coral *Lophelia pertusa* in mid-Atlantic canyons of the United States", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 104 (June 2014).

[24] Andrea M. Quattrini and others, "Exploration of the canyon-incised continental margin of the northeastern United States reveals dynamic habitats and diverse communities", *PLOS ONE*, vol. 10, No. 10 (October 2015).

[25] See also World Ocean Assessment I, chap. 45.

[26] Alex D. Rogers and others, "The discovery of new deep-sea hydrothermal vent communities in the Southern Ocean and implications for biogeography", *PLOS Biology*, vol. 10, No. 1 (January 2012).

[27] Amy R. Baco and others, "Initial characterization of cold seep faunal communities on the New Zealand Hikurangi margin", *Marine Geology*, vol. 272, Nos. 1-4 (July 2010).

[28] J. Vaughn Barrie, Sarah Cook and Kim W. Conway, "Cold seeps and benthic habitat on the Pacific margin of Canada", *Continental Shelf Research*, vol. 31, No. 2 (2011).

4. Cold-water coral ecosystems[29]

17. The last five years have seen a leap forward in understanding the distribution of cold-water coral reefs, with new discoveries in many regions of the ocean, including along the continental margin of eastern South America.[30] Technological developments have been critical for the location of new cold-water coral reefs, including the use of high-resolution multibeam bathymetry, remotely operated vehicles and towed cameras.[19] In the absence of observational data on the presence of VMEs, habitat suitability modelling is being used as a guide to where they may occur[31] and can now be used in analysis of the risk of encounters of deep-sea bottom fisheries with VMEs.[32]

18. Cold-water coral reefs in some areas are already under threat from a range of human activities, including fisheries and marine debris accumulation, including fishing gear and large pieces of plastic debris.[33]

19. Coral carbonate mounds (see A/61/154, para. 17, and A/64/305, para. 26) are often associated with VMEs, including cold-water coral reefs and coral garden habitat.[34,35]

20. Coral gardens are ecologically important because of their association with high biological diversity. Associates may occur within the coral garden habitat or be directly associated with the corals.[20,36,37,38,39,40] Coral gardens can form an essential

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[29] See also A/64/305, paras. 21-25; A/66/307, paras. 14-18 and World Ocean Assessment I, chap. 42.

[30] Araceli Muñoz and others, "Sediment drifts and cold-water coral reefs in the Patagonian upper and middle continental slope", *Marine and Petroleum Geology*, vol. 36, No. 1 (September 2012).

[31] Martin Cryer, "Progress on predicting the distribution of vulnerable marine ecosystems and options for designing spatial management areas for bottom fisheries within the South Pacific Regional Fisheries Management Convention Area", paper prepared for the third meeting of the Scientific Committee of the South Pacific Regional Fisheries Management Organization, Vanuatu, 28 September-3 October 2015.

[32] Alexander D. T. Vierod, John M. Guinotte and Andrew J. Davies, "Predicting the distribution of vulnerable marine ecosystems in the deep sea using presence-background models", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 99 (January 2014).

[33] Alessandra Savini and others, "Mapping cold-water coral habitats at different scales within the northern Ionian Sea (central Mediterranean): an assessment of coral coverage and associated vulnerability, *PLOS ONE*. vol. 9, No. 1 (January 2014).

[34] J. Murray Roberts and others, "Cold-water coral reef frameworks, megafaunal communities and evidence for coral carbonate mounds on the Hatton Bank, north east Atlantic", *Facies*, vol. 54, No. 3 (August 2008).

[35] Christian Mohn and others, "Linking benthic hydrodynamics and cold-water coral occurrences: a high-resolution model study at three cold-water coral provinces in the NE Atlantic", *Progress in Oceanography*, vol. 122 (March 2014).

[36] Peter J. Auster and others, "Octocoral gardens in the Gulf of Maine (NW Atlantic)", *Biodiversity*, vol. 14, No. 4 (October 2013).

[37] Susana Carvalho and others, "Biodiversity patterns of epifaunal assemblages associated with the gorgonians *Eunicella gazella* and *Leptogorgia lusitanica* in response to host, space and time", *Journal of Sea Research*, vol. 85 (January 2014).

[38] Marzia Bo and others, "Persistence of pristine deep-sea coral gardens in the Mediterranean Sea (SW Sardinia)", *PLOS ONE*, vol. 10, No. 3 (March 2015).

[39] Robert P. Stone, Michele M. Masuda and John F. Karinen, "Assessing the ecological importance of red tree coral thickets in the eastern Gulf of Alaska", *ICES Journal of Marine Science*, vol. 72, No. 3 (November 2014).

[40] M. Ingrassia and others, "Black coral (Anthozoa, Antipatharia) forest near the western Pontine Islands (Tyrrhenian Sea)", *Marine Biodiversity*, vol. 46, No. 1 (March 2016).

fish habitat for commercially important fish (e.g. Alaska[39] and Azores[41]). Functional relationships between coral gardens and commercial fish have been identified, such as observations of larvae sheltering in coral habitat or eggs being attached to corals.[38,42]

21. Coral gardens are damaged by deep-sea bottom fishing[43,44,45] and heavily fished areas may show evidence of significant reduction in populations.[46] Because of the high longevity (up to >4,000 years)[47] of some species of corals, recovery potential is limited. Lost fishing gear has also been observed on coral garden habitats, causing prolonged impacts associated with entanglement and mechanical damage.[44,45,48]

5. Sponges[49]

22. The distribution and taxonomy of sponges is poorly known and discoveries of new species and new sponge habitats continue. Sponges are fragile and are therefore vulnerable to damage from bottom-contact fishing.[50,51,52] Some sponges, such as glass sponges, are highly vulnerable, not just to bottom trawling but also to longlining or other forms of line fishing, which may cut through the sponges and destroy them.[52,53] They are also slow-growing and their capacity to recover from

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[41] Christopher K. Pham and others, "The importance of deep-sea vulnerable marine ecosystems for demersal fish in the Azores", *Deep-Sea Research Part I: Oceanographic Research Papers*, vol. 96 (February 2015).

[42] Sandrine Baillon and others, "Deep cold-water corals as nurseries for fish larvae", *Frontiers in Ecology and the Environment*, vol. 10, No. 7 (September 2012).

[43] Evan N. Edinger and Owen A. Sherwood, "Applied taphonomy of gorgonian and antipatharian corals in Atlantic Canada: experimental decay rates, field observations, and implications for assessing fisheries damage to deep-sea coral habitats", *Neues Jahrbuch für Geologie und Paläontologie — Abhandlungen*, vol. 265, No. 2 (August 2012).

[44] Marzia Bo and others, "Deep coral oases in the South Tyrrhenian Sea", *PLOS ONE*, vol. 7, No. 11 (November 2012).

[45] Marzia Bo and others, "Fishing impact on deep Mediterranean rocky habitats as revealed by ROV investigation", *Biological Conservation*, vol. 171 (March 2014).

[46] F. J. Murillo and others, "Distribution of deep-water corals of the Flemish Cap, Flemish Pass, and the Grand Banks of Newfoundland (Northwest Atlantic Ocean): interaction with fishing activities", *ICES Journal of Marine Science*, vol. 73, No. 7 (June 2010).

[47] E. Brendan Roark and others, "Extreme longevity in proteinaceous deep-sea corals", *Proceedings of the National Academy of Sciences of the United States of America*, vol. 106, No. 13 (March 2009).

[48] Christopher K. Pham and others, "Abundance of litter on Condor seamount (Azores, Portugal, Northeast Atlantic)", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 98, part A (December 2013).

[49] See also A/64/305, paras. 27 and 28.

[50] Mariana M. Hogg and others, *Deep-sea Sponge Grounds: Reservoirs of Biodiversity*, UNEP-WCMC Biodiversity Series No. 32 (UNEP-World Conservation Monitoring Centre, Cambridge, United Kingdom, 2010).

[51] A. B. Klitgaard and O. S. Tendal, "Distribution and species composition of mass occurrences of large-sized sponges in the northeast Atlantic", *Progress in Oceanography*, vol. 61, No. 1 (April 2004).

[52] Manuel Maldonado and others, "Sponge grounds as key marine habitats: a synthetic review of types, structure, functional roles, and conservation concerns", in *Marine Animal Forests: The Ecology of Benthic Biodiversity Hotspots*, Sergio Rossi and others, eds. (Switzerland, Springer International Publishing, 2016).

[53] Manuel Maldonado and others, "Aggregated clumps of lithistid sponges: a singular, reef-like bathyal habitat with relevant paleontological connections", *PLOS ONE*, vol. 10, No. 5 (May 2015).

fishing or other impacts is limited.[50] Habitat-forming sponges are therefore regarded as potential VMEs.

6. Other vulnerable marine ecosystems

23. Other organisms are associated with VMEs or form VMEs, either by themselves or associated with other habitat-forming taxa.

24. Xenophyophores are giant protozoans that accrete inorganic material to form a complex test on the surface of the seabed. They are extremely fragile and easily destroyed by bottom-fishing gear.[54] Although they can grow in rapid bursts,[55] it is unclear whether they rapidly recover. Syringamminidae are listed as an indicator species for the mud- and sand-emergent fauna VME.[56]

25. Both stalked and unstalked crinoids can form aggregations,[12,57] and may be used as habitat by small fish and other invertebrates.[57] These animals are extremely fragile and are long-lived (>20 years) and the habitats they form are therefore classified as VMEs by at least one RFMO.[57] Crinoid VMEs have been identified in the areas covered by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Northwest Atlantic Fisheries Organization (NAFO).

26. Habitat-forming bryozoans are heavily-calcified species which extend for 5 cm or more in three dimensions. They host a wide range of other invertebrate species and the diversity of associates at local to regional scales can reach hundreds of species. In some cases, habitat-forming bryozoans can act as habitat for juvenile fish. Bottom fishing is a significant threat to them.[58]

27. Large sea squirts can occur in groups where they can form habitat for other species.[58] Although ascidians can grow relatively quickly[59] there is evidence that populations can decline as a result of fishing impacts (for example, in the Bay of Fundy, Canada).[60]

28. Tube-dwelling anemones of the order ceriantharia occur in sediments and can form high-density aggregations in the deep-sea.[61] Cerianthid anemones are known to

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[54] International Council for the Exploration of the Sea, "Report of the joint ICES/NAFO Working Group on deep-water ecology", 15-19 February 2016, Copenhagen.

[55] Andrew J. Gooday, B. J. Bett and D. N. Pratt, "Direct observation of episodic growth in an abyssal xenophyophore (Protista)", *Deep-Sea Research Part I: Oceanographic Research Papers*, vol. 40, Nos. 11/12 (November 1993).

[56] See North-East Atlantic Fisheries Commission, recommendation 19:2014, available from www.neafc.org/system/files/Rec19-Protection-of-VMEs_0.pdf.

[57] Francisco Javier Murillo and others, "New VME indicator species (excluding corals and sponges) and some potential VME elements of the NAFO Regulatory Area", NAFO SCR Doc. 11/73, December 2011, available from www.archive.nafo.int/open/sc/2011/scr11-073.pdf.

[58] A. C. L. Wood and others, "Complex habitat generated by marine bryozoans: a review of its distribution, structure, diversity, threats and conservation", *Aquatic Conservation: Marine and Freshwater Ecosystems*, vol. 22, No. 4 (June 2012).

[59] S. J. Parker and D. A. Bowden, "Identifying taxonomic groups vulnerable to bottom longline fishing gear in the Ross Sea region", *CCAMLR Science*, vol. 17 (2010).

[60] Ellen L. Kenchington and others, "Multi-decadal changes in the megabenthos of the Bay of Fundy: the effects of fishing", *Journal of Sea Research*, vol. 58, No. 3 (April 2007).

[61] S. D. Fuller and others, "Vulnerable marine ecosystems dominated by deep-water corals and sponges in the NAFO Convention Area", NAFO SCR doc. 08/22, available from archive.nafo.int/open/sc/2008/scr08-022.pdf.

be damaged by bottom-contact fishing and given their relatively high longevity (11-20 years) they may be classified as VMEs.[61]

29. Serpulids are polychaete worms that secrete calcareous tubes that can form habitat when they occur in tangled masses, with or without association to coral frameworks. The impacts of bottom trawl fishing on these types of habitats are likely to be extremely large because of their fragility and thus they are classified as VMEs.[62]

30. High-density aggregations of large erect hydroids, brittlestars (Ophiuroidea), barnacles, bivalve molluscs or brachiopods can form habitat on the seabed and are fragile organisms vulnerable to impacts from bottom fishing.[57,63,64] In addition, deep-sea urchins, especially cidaroidea (pencil urchins), can occur in relatively high numbers in the deep-sea and can provide habitat for other species.[65,66]

B. Deep-sea fish stocks

31. Previous reports of the Secretary-General have provided information on the characteristics of deep-sea fish stocks, including their vulnerability to overfishing (see, for example, A/66/307, paras. 22-27). There is no universally accepted definition of what constitutes a deep-sea commercial species[67] although generally they are identified as occurring deeper than 200-500 metres.[68] There are significant correlations between depth and general life-history traits. For example, rates of population increase drop with increasing depth and maximum age and age at maturity increase with depth.[69,70,71] The proportion of species with a higher vulnerability to overfishing is therefore positively correlated with depth.[69,72,73]

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[62] Ana Ramos and Guillermo San Martín, "On the finding of a mass-occurrence of *Serpula narconensis* Baird, 1885 (Polychaeta, Serpulidae) in South Georgia (Antarctica)", *Polar Biology*, vol. 22, No. 6 (November 1999).

[63] CCAMLR VME Taxa Identification Guide 2009, (Hobart, Tasmania, Australia, 2009), available from www.ccamlr.org/en/system/files/VME-guide.pdf.

[64] Mark P. Johnson and others, "A vertical wall dominated by *Acesta excavata* and *Neopycnodonte zibrowii*, part of an undersampled group of deep-sea habitats", *PLOS ONE*, vol. 8, No. 11 (November 2013).

[65] Carlo Cerrano and others, "Epibiotic demosponges on the Antarctic scallop *Adamussium colbecki* (Smith, 1902) and the cidaroid urchins *Ctenocidaris perrieri* Koehler, 1912 in the nearshore habitats of the Victoria Land, Ross Sea, Antarctica", *Polar Biology*, vol. 32, No. 7 (July 2009).

[66] C. Hardy and others, "Ectosymbiosis associated with cidaroids (Echinodermata: Echinoidea) promotes benthic colonization of the seafloor in the Larsen Embayments, western Antarctica", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 58, Nos. 1-2 (January 2011).

[67] O. A. Bergstad, "North Atlantic demersal deep-water fish distribution and biology: present knowledge and challenges for the future", *Journal of Fish Biology*, vol. 83, No. 6 (December 2013).

[68] Malcolm R. Clark and others, "The impacts of deep-sea fisheries on benthic communities: a review", *ICES* Journal *of Marine Science*, vol. 73, suppl. 1 (January 2016).

[69] Colin A. Simpfendorfer and Peter M. Kyne, "Limited potential to recover from overfishing raises concerns for deep-sea sharks, rays and chimaeras", *Environmental Conservation*, vol. 36, No. 2 (June 2009)

[70] Jeffrey C. Drazen and Richard L. Haedrich, "A continuum of life histories in deep-sea demersal fishes", *Deep-Sea Research Part I: Oceanographic Research Papers*, vol. 61 (March 2012).

[71] Sebastian Villasante and others, "Sustainability of deep-sea fish species under the European Union Common Fisheries Policy", *Ocean and Coastal Management*, vol. 70 (December 2012).

[72] William W. L. Cheung and others, "Intrinsic vulnerability in the global fish catch", *Marine Ecology Progress Series*, vol. 333, Nos. 1-12 (March 2007).

32. Since 2011, there has been an increase in scientific knowledge regarding the characteristics and status of some deep-sea fish stocks.[74] However, the overall state of knowledge regarding deep-sea fish stocks remains limited (see A/CONF.210/2016/1, para. 26).

C. Impacts of bottom fishing on vulnerable marine ecosystems and deep-sea fish stocks

33. Modern large-scale bottom fisheries were fostered by technological developments and distant-water industrial fishing. Gillnets, longlines and both pelagic and bottom trawls have been the primary gears. Bottom trawls have had the greatest impact, affecting both targeted and non-targeted species, including associated benthic communities (see also para. 44 below). Those fisheries have occurred in all oceans except the Arctic, although an increasing number of restrictions on such fishing activities are being imposed[2] (see also section III below).

34. The following section updates the information in previous reports of the Secretary-General on the impacts of bottom-fishing activities on VMEs and deep-sea fish stocks (see A/61/154, paras. 24-56; A/64/305, paras. 38-43; and A/66/307, paras. 28-39).

1. Vulnerable marine ecosystems

35. The impacts of bottom trawling in the deep-sea may include the scraping and ploughing of the seabed, killing of non-target species, destruction of habitat, resuspension of sediments potentially smothering fauna and the dumping of processing wastes. Many of those impacts also occur in shallow waters, but the fragility of deep-sea ecosystems and the extreme longevity and slow growth rates of many deep-sea species means that recovery may be much slower in the deep-sea.[68] Observations of areas where fishing has ceased have shown no recovery of benthic VMEs (cold-water coral reef) in 5-10 years.[75,76] Modelling of the recovery of sponges and corals from trawling in Alaska at relatively shallow depths (down to 300m) has suggested the recovery of 80 per cent of biomass after several decades.[77]

36. The impacts of deep-sea trawling on soft substrata, such as sand or mud, have been less studied and publicized than on hard substrata, but can be significant. VME species, such as sponges and octocorals (e.g. sea pens), also occur on soft substrata

[73] Elliot A. Norse and others, "Sustainability of deep-sea fisheries", *Marine Policy*, vol. 36, No. 2 (March 2012).

[74] See, for example, Ross Shotton, *Global Review of Alfonsino (Beryx spp.), Their Fisheries, Biology and Management*, FAO Fisheries and Aquaculture Circular No. 1084 (Rome, FAO, 2016).

[75] F. Althaus and others, "Impacts of bottom trawling on deep-coral ecosystems of seamounts are long-lasting", *Marine Ecology Progress Series*, vol. 397 (December 2009).

[76] Alan Williams and others, "Seamount megabenthic assemblages fail to recover from trawling impacts", *Marine Ecology*, vol. 31, suppl. 1 (September 2010).

[77] Christopher N. Rooper and others, "Modelling the impacts of bottom trawling and the subsequent recovery rates of sponges and corals in the Aleutian Islands, Alaska", *Continental Shelf Research*, vol. 31, No 17 (November 2011).

and trawling has similar negative impacts on those organisms as in rocky habitats.[78] So large are the physical and biological effects of trawling on deep-sea sediments that they may impact biogeochemical cycling at the local to regional scale.[79]

37. In addition to deep-sea bottom trawling, bottom longlining is increasingly recognized as capable of damaging VMEs, particularly branching corals and sponges.[39,53,80,81,82,83] Damage to VME species occurs from the weights used to hold lines to the seabed, lateral movement of longline sets during retrieval, or as a result of currents at the seabed, and also through the hooking and entanglement of organisms.[39,80,82] While the level of impacts of individual longlines is small compared to bottom trawls, in the conditions of high fishing intensity, where VMEs are present, they may represent a threat.[39,80] Longlines can also be used in areas of complex rocky topography, where trawling is not possible.[80] These considerations may be particularly important where there is evidence of increased longline effort, for example, as a result of restrictions on other forms of fishing (e.g. gillnetting or bottom trawling).

38. The use of seabed imaging methods, such as towed cameras and remotely operated vehicles, indicates that high levels of lost fishing gear may also be found in VMEs. That is especially the case where such VMEs comprise or are located in complex seabed topography with hard substrata (e.g. seamounts or canyons).[20,33,39,40,44,45,53,84,85] Lost gear has the potential to ghost fish, to continue damaging VME species through entanglement and/or abrasion and poses a significant risk to further fishing operations and scientific research.

2. Deep-sea fish stocks

39. The scale of bottom fisheries and their impacts on deep-sea fish stocks have been detailed in previous reports of the Secretary-General (see, for example, A/66/307, paras. 33-39). Overexploitation of deep-sea fish species has resulted in the depletion of some stocks for which targeted fishing has, in some cases, been prohibited (for example, orange roughy in the North-East Atlantic).[86] Even where

[78] Lene Buhl-Mortensen and others, "Trawling disturbance on megabenthos and sediment in the Barents Sea: chronic effects on density, diversity, and composition", *ICES Journal of Marine Science*, vol. 73, suppl. 1 (November 2015).

[79] Jacobo Martín and others, "Commercial bottom trawling as a driver of sediment dynamics and deep seascape evolution in the Anthropocene", *Anthropocene*, vol. 7, (September 2014).

[80] P. Durán and others, "Effects of deep-sea bottom longlining on the Hatton Bank fish communities and benthic ecosystem, north-east Atlantic", *Journal of the Marine Biological Association of the United Kingdom*, vol. 91, No. 4 (December 2011).

[81] Michelle L. Taylor and others, "Using fisheries by-catch data to predict octocoral habitat suitability around South Georgia", *Journal of Biogeography*, vol. 40, No. 9 (September 2013).

[82] M-C. Fabri and others, "Megafauna of vulnerable marine ecosystems in French Mediterranean submarine canyons: spatial distribution and anthropogenic impacts", *Deep-Sea Research Part II: Topical Studies in Oceanography*, vol. 104 (June 2014).

[83] Christopher K. Pham and others, "Deep-water longline fishing has reduced impact on vulnerable marine ecosystems", *Nature Scientific Reports*, vol. 4 (April 2014).

[84] Lucy C. Woodall and others, "Deep-sea litter: a comparison of seamounts, banks and a ridge in the Atlantic and Indian Oceans reveals both environmental and anthropogenic factors impact accumulation and composition", *Frontiers in Marine Science*, vol. 2 (February 2015).

[85] Michela Angiolillo and others, "Distribution and assessment of marine debris in the deep Tyrrhenian Sea (NW Mediterranean Sea, Italy)", *Marine Pollution Bulletin*, vol. 92, Nos. 1-2 (January 2015).

[86] International Council for the Exploration of the Sea, "Report of the Working Group on biology and assessment of deep-sea fisheries resources", ICES Advisory Committee, 20-27 April 2016, Copenhagen.

total allowable catches have been set, actual catches have frequently exceeded them in some areas[72] and catch data can be poor, misreported or aggregated across species.

40. In addition to targeted species, populations of by-catch fish species have also been depleted by deep-sea fisheries.[87,88,89] Moreover, the impact of deep-sea fisheries may extend beyond the footprint where fishing occurs.[88,90]

41. For some deep-sea fish species, science-based management is enabling sustainable fishing of target species. However, independent surveys, an important tool for monitoring the abundance of target and non-target fish species, as well as broader aspects of the environment, are lacking for many regions.[67,91]

42. New methods are being developed for stock assessment of target and by-catch deep-sea fish where data is poor or is only available from the fish catches.[92] They may be useful for a broader range of deep-sea fisheries especially where economic considerations mean that larger assessment programmes are unlikely to be viable.

43. The continued targeting of species known to have a high vulnerability to overfishing[69] and in geographic areas where scientific information is scant remains a cause for concern (for example, the southern Indian Ocean),[93] as the recovery of many overexploited stocks/populations of target and by-catch species has been slow.[89]

3. Mitigation efforts

44. Improved impact assessments and area closures have had some success in reducing the impacts of bottom fishing on VMEs and deep-sea fish stocks. Technical modifications of fishing gear or changes in fishing practice have also been studied as a way to reduce impacts, but with limited success.[68]

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[87] Jennifer A. Devine and others, "Deep-sea fishes qualify as endangered", *Nature*, vol. 439, No. 29 (January 2006).

[88] Imants G. Priede and others, "A review of the spatial extent of fishery effects and species vulnerability of the deep-sea demersal fish assemblage of the Porcupine Seabight, Northeast Atlantic Ocean (ICES Subarea VII)", *ICES Journal of Marine Science*, vol. 68, No. 2 (June 2010).

[89] Francis Neat and others, "The diversity, distribution and status of deep-water elasmobranchs in the Rockall Trough, north-east Atlantic Ocean", *Journal of Fish Biology*, vol. 87, No. 6 (December 2015).

[90] D. M. Bailey and others, "Long-term changes in deep-water fish populations in the northeast Atlantic: a deeper reaching effect of fisheries?", *Proceedings of the Royal Society B: Biological Sciences*, vol. 276, No. 1664 (June 2009).

[91] Philip A. Large and others, "Strengths and weaknesses of the management and monitoring of deep-water stocks, fisheries, and ecosystems in various areas of the world: a roadmap toward sustainable deep-water fisheries in the northeast Atlantic?", *Reviews in Fisheries Science*, vol. 21, No. 2 (2013).

[92] Pascal Lorance, "Management and monitoring of deep-sea fisheries and stocks", *Aquatic Living Resources*, vol. 26, No. 4 (October-December 2013).

[93] L. J. López-Abellán and I. Figueiredo, Report of the European Union to the annual meeting of the Scientific Committee of the Southern Indian Ocean Fisheries Agreement (Fremantle, Australia, 20-24 March 2016).

45. For example, in some cases, a switch from bottom trawl to mid-water trawl may be feasible as a way to lessen impacts, but although bottom contact from mid-water trawls is of lower intensity, it could still result in damage to VMEs.[94] Spatial conservation measures, whether through closure of areas where VMEs are present or by limiting the depth of fishing, remain the most effective measures to conserve such ecosystems.

46. Implementation of encounter protocols presents a number of challenges.[95,96] Problems associated with their implementation include the absence of a rigorous process of VME identification; extremely high thresholds for VME indicator species not based on any form of scientific analysis, such as kernel density estimation,[97] and the specification that for corals the by-catch must be live.[98] Where "move-on" action is triggered, it is important that the move-on distance reflects the potential zone in which a VME may occur (e.g. anywhere along a trawl track or longline setting) and that the area is subject to rapid assessment and if necessary closure by the managing body.

III. Actions taken by States and regional fisheries management organizations and arrangements to address the impacts of bottom fisheries on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks

A. Actions taken by regional fisheries management organizations and arrangements with competence to regulate bottom fisheries[99]

47. The following section describes actions to give effect to the relevant paragraphs of General Assembly resolutions 64/72 and 66/68 and address the impacts of bottom fishing on VMEs and the long-term sustainability of deep-sea fish stocks, taken by RFMO/As with the competence to regulate bottom fisheries: CCAMLR, General Fisheries Commission for the Mediterranean (GFCM), NAFO, North East Atlantic Fisheries Commission (NEAFC), North Pacific Fisheries

[94] Geoff Tingley, "An assessment of the potential for near-seabed midwater trawling to contact the seabed and to impact benthic habitat and vulnerable marine ecosystems (VMEs)", Ministry for Primary Industries, New Zealand, technical paper No. 2014/30 (2014).

[95] Peter J. Auster and others, "Definition and detection of vulnerable marine ecosystems on the high seas: problems with the move-on rule", *ICES Journal of Marine Science*, vol. 68, No. 2 (April 2010).

[96] Alex D. Rogers and Matthew Gianni, "The Implementation of UNGA resolutions 61/105 and 64/72 in the management of deep-sea fisheries on the high seas", report prepared for the Deep-Sea Conservation Coalition (International Programme on the State of the Ocean, 2010).

[97] Ellen Kenchington and others, "Kernel density surface modelling as a means to identify significant concentrations of vulnerable marine ecosystem indicators", *PLOS ONE*, vol. 9, No. 10 (October 2014).

[98] As cold-water coral reefs often largely comprise dead coral framework with a relatively small portion made up of live framework-building coral, specification that coral by-catch must be live is therefore likely to result in VMEs not being identified through the encounter protocol.

[99] Information provided by the RFMO/As is supplemented by that provided by States and the European Union, as well as responses submitted by RFMO/As to the voluntary questionnaire for States and RFMO/As for the report of the Secretary-General to the resumed Review Conference on the United Nations Fish Stocks Agreement. Where such supplemental information is utilized, the source is indicated in the footnotes.

Commission (NPFC), South East Atlantic Fisheries Organization (SEAFO), Southern Indian Ocean Fisheries Agreement (SIOFA) and South Pacific Regional Fisheries Management Organisation (SPRFMO).

48. Among the three new RFMO/As competent to manage bottom fisheries in areas beyond national jurisdiction, SPRFMO has adopted conservation and management measures (CMMs) to address the call to action by the General Assembly, while SIOFA and NPFC still need to do so. States that have participated in the negotiations to establish those three RFMO/As have adopted and implemented interim measures.

49. Following the entry into force of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean in 2012, SPRFMO reported that CMM 2.03 was adopted in 2013 to implement the 2008 FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (the Guidelines)[100] and relevant General Assembly resolutions.[101] It was succeeded by an almost identical measure, CMM 4.03, in 2016, which limits vessels flying the flag of a SPRFMO member or a cooperating non-Contracting Party to fishing within a specified fishing footprint, and prohibits SPRFMO members and cooperating non-Contracting Parties from authorizing their flagged vessels to engage in any bottom fishing in the SPRFMO Convention Area, unless they have prepared a bottom-fishing impact assessment.[102] Furthermore, SPRFMO CMM 1.02 (2013) prohibits the use of all deepwater gillnets in the Convention Area.[103]

50. Having entered into force in 2012, SIOFA recently agreed on its rules of procedure and has yet to establish binding CMMs. Australia reported that it was preparing a CMM for the management of bottom fishing in the SIOFA Area, seeking to implement the relevant General Assembly resolutions, and further noted that it would be considered by the SIOFA Scientific Committee in March 2016 for proposal to the meeting of the parties to the Agreement in June 2016.

51. The Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, which established NPFC, entered into force in 2015. At the 13th meeting of the scientific working group in August 2015, NPFC reported that participants recognized the need to convert the VME and marine species interim and voluntary measures into formal NPFC measures in the light of the coming into force of the Convention. The working group recommended that NPFC, inter alia, approve continuation of all current interim measures as formal interim measures, continue all voluntary measures and direct the Scientific Committee to initiate the process for refinement of the formal NPFC interim and voluntary measures to bring them up to formal CMMs.

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[100] FAO, *Report of the Technical Consultation on International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, Rome, 4-8 February and 25-29 August 2008*, FAO Fisheries and Aquaculture report No. 881, appendix F (Rome, 2008).

[101] SPRFMO response to the voluntary questionnaire for States and RFMO/As for the report of the Secretary-General to the resumed Review Conference on the United Nations Fish Stocks Agreement.

[102] Contribution of Australia.

[103] Contribution of New Zealand.

1. Identifying vulnerable marine ecosystems on the basis of marine scientific research and other sources of information (paragraph 119 (b) of resolution 64/72 and paragraphs 132 and 133 of resolution 66/68)

52. Several RFMOs reported having identified areas where VMEs occurred or were likely to occur, based on the results of marine scientific research and scientific and technical information obtained from other sources. In doing so, they carried out research programmes and/or elaborated on the definition of VMEs in the context of their regions.

53. CCAMLR reported that its description of VMEs in its CM 22-06 included the habitats and communities identified in paragraph 80 of resolution 61/105 and paragraph 113 of resolution 64/72 and sponge fields. CCAMLR maintained a registry of VMEs in the Convention Area,[104] which included their location and characteristics.[105]

54. NAFO reported that it had facilitated research on deep-sea species and ecosystems through the exchange of information and data in its scientific forums, coordination of funding of relevant research and the analysis of vessel monitoring system data by the secretariat. The NAFO NEREIDA project[106] represented a major multidisciplinary research effort on sensitive habitats and fishing activities in the north-west Atlantic and an in-depth analysis of the impacts of fishing on VMEs.[107]

55. With regard to the use of research results, NAFO has convened a series of scientific and fisheries management working groups since 2008 and convened a joint scientific-fisheries management group in 2014 and 2015.

56. NAFO has also made efforts to ensure that the measures taken to promote sustainable fisheries and the protection of ecosystems in the deep-sea were consistent with the Guidelines, including by reviewing species caught during research vessel surveys against the Guidelines for identifying VMEs and reassessing its bottom-fishing activities.[108]

57. In 2011, as a result of research vessel surveys in the NAFO Regulatory Area, three new groups (crinoids, erect bryozoans and large sea squirts) had emerged as potential indicators of VMEs, in addition to the coral and sponge taxa. Seamounts, canyon heads, spawning areas and knolls, listed as VME elements in the Guidelines, had also been identified. All of the new VME indicators and elements were mapped. The NAFO "Coral, sponge and other vulnerable marine ecosystem indicator identification guide" was published in 2015, to improve reporting related to the implementation of the ecosystem approach.

58. NEAFC reported that it had not conducted scientific work, but based its work on scientific advice from the International Council for the Exploration of the Sea (ICES), which undertook work on all the elements referred to in paragraph 133 of resolution 66/68. NEAFC and its Contracting Parties provided ICES with various data. On the basis of the best scientific information available, areas where VMEs occurred or were likely to occur were identified.

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[104] See www.ccamlr.org/en/document/data/ccamlr-vme-registry.
[105] Contribution of the United States.
[106] See www.nafo.int/science/nereida.html.
[107] Also reported by Canada and the European Union.
[108] Also reported by Canada.

59. SEAFO reported that a research cruise by the *RV Dr. Fridtjof Nansen* was conducted in 2015, to obtain more information on bathymetry, VME indicator organisms, fisheries resources and evidence of human footprint in the different study areas. The data collected during the research cruise indicated that corals in some knolls would be classified as coral gardens and/or reefs, and therefore as VMEs. The SEAFO definition of VMEs was derived from paragraphs 42 and 43 of the Guidelines. In 2014, SEAFO adopted guidelines for scientific research conducted in the SEAFO Convention Area, which differentiated exploratory fishing from scientific research.

60. SPRFMO CMM 2.03 set out rules for identifying, on the basis of the best available scientific information, areas where VMEs were known or were likely to occur in the Convention Area, mapping those sites and providing such data to the SPRFMO secretariat for circulation.[103] In SPRFMO, the initial work related to the identification of areas where VMEs might occur included an analysis of historical VME by-catch weights in bottom-trawl operations to develop a definition of what taxa constituted evidence of VMEs and to develop a move-on protocol, based on threshold by-catch weights, plus an index of biodiversity.[103] Research on deep-sea species, particularly orange roughy, was carried out under the auspices of the SPRFMO Scientific Committee workplan and research programme.[102]

2. Adopting conservation and management measures to protect vulnerable marine ecosystems or closing areas to bottom fishing until such measures are in place (paragraph 132 of resolution 66/68)

(a) Assessing the impacts of bottom fisheries on vulnerable marine ecosystems (paragraph 119 (a) of resolution 64/72; paragraphs 129 (a)-(c) of resolution 66/68)

61. Several RFMOs have maintained the possibility for bottom fisheries to take place in VMEs if they have been assessed as not having significant adverse impacts on VMEs. To that end, several RFMOs have established protocols for exploratory fisheries, which require those intending to conduct bottom fisheries to submit fisheries plans, preliminary assessments of impacts and, if significant adverse impacts are likely, mitigation measures. They have also provided for procedures for the examination and approval of proposals.

62. CCAMLR reported that CM 22-06 and CM 22-07 provided for an assessment process, undertaken by its Scientific Committee. It determined whether proposed bottom-fishing activities, taking into account, inter alia, the history of bottom fishing in the area proposed and a risk assessment, would contribute to significant adverse impacts on VMEs, and ensured that, if it was determined that those activities would make such contributions, they were managed to prevent such impacts or were not authorized to proceed. CM 22-06 includes a form for submitting preliminary assessments of the potential for proposed bottom-fishing activities to have significant adverse impacts on VMEs.

63. NEAFC reported that, since regular fisheries had been restricted to specific sub-areas where VMEs were unlikely to occur, any regular bottom fisheries that continued had been assessed as not being likely to have significant adverse impacts on VMEs.[109] It prohibited regular fishing with bottom gear beyond existing fishing areas. Exploratory fishing beyond those areas could only be authorized if the risk of

[109] NEAFC reported that paragraph 129 (a) of resolution 66/68 did not apply to it.

significant adverse impacts to VMEs was assessed to be minimal, after the proposing party had submitted a letter of intent and a pre-assessment with specified content. The Permanent Committee on Management and Science would assess the proposal and advise NEAFC whether it considered the activity to have significant adverse impacts on VMEs. The Committee had formulated procedures and standards for the consideration of such proposals. NEAFC also reported that the assessment called for in paragraph 83 (a) of resolution 61/105 had been conducted. In all three cases, where proposals had been made for exploratory bottom fisheries, the proposed activity was assessed as not having significant adverse impacts on VMEs. However, it had not allowed activities to commence, because the target species were a sedentary species subject to coastal State jurisdiction.

64. SEAFO reported that CM 30/15 addressed assessments associated with exploratory fisheries, requiring, inter alia, the gathering of relevant data, which should preferably include data from sea-bed mapping programmes and/or other data relevant to the preliminary assessment of the risk of significant adverse impacts on VMEs; a notice of intent to undertake exploratory bottom fishing; and a preliminary assessment of the known and anticipated impacts of the proposed bottom-fishing activity. The Scientific Committee would undertake an evaluation of the impact assessment and provide advice to the Commission as to whether the proposed activity would have significant adverse impacts on VMEs and, if so, whether mitigation measures would prevent such impacts. On that basis, the Commission would either give or withhold its approval. Following exploratory bottom fishing, the Commission would decide whether or not to authorize new bottom-fishing activities, based upon its results. Areas where such new bottom-fishing activities were authorized would be defined as "existing bottom-fishing areas". In such cases, SEAFO would take into account the guidance provided by FAO in the framework of the code of conduct for responsible fisheries and any other internationally agreed standards, as appropriate.

65. It was reported that, since 2011, CCAMLR had strengthened and streamlined procedures for carrying out assessments to take into account cumulative impacts, refined the data requirements for CCAMLR members to improve the effectiveness of assessments and management measures, and recommended a review to determine whether current management measures were sufficient.[103]

66. NAFO reported that it had adopted a cycle of advice, review and implementation of its management measures to ensure that the ecosystem approach was always considered when fisheries management decisions were taken. The NAFO road map for developing an ecosystem approach to fisheries served as a framework to assess and mitigate significant adverse impacts on any part of the ecosystem. In particular, since 2008, NAFO had established a process for reviewing its measures for the protection of VMEs, allowing refinement of its management measures on the basis of the most up-to-date scientific information. The ongoing review ensured that assessments were undertaken on a regular basis. Specifically, article 24 of its conservation and enforcement measures imposed the obligation on NAFO to review its VME measures before 2020.

67. NAFO was preparing for a reassessment of its bottom-fishing activities to be presented at its annual meeting in 2016. It would take the necessary actions to protect VMEs following the reassessment and conduct a reassessment of its bottom-fishing activities every five years thereafter.

68. NEAFC reported that ICES updated its scientific advice to NEAFC on the basis of any new information, or new assessment of existing information. NEAFC would then take action, including closing new areas to bottom fishing and adjusting the borders of already closed areas. Furthermore, time limits were in place on the NEAFC area closures to ensure that they were revisited and reviewed regularly. Assessments of the occurrence of VMEs and area closures based on them were therefore regularly updated.

69. SEAFO reported that review procedures were included in its measures and now also applied to existing bottom-fishing areas (CM 30/15). Currently, the closed areas were closed to all types of fishing that it managed. However, with its approval, research activities would be permitted within the closed areas and further information could lead to changes in the measures adopted, including closures.

70. SPRFMO requested its Scientific Committee to review and streamline the bottom-fishing impact assessment standard agreed by the Scientific Working Group in 2011, to take account of the latest scientific information available. The measure was scheduled for review in 2017, taking into account the latest advice of the Scientific Committee.[109]

(b) Closing areas containing marine ecosystems vulnerable to bottom fishing

71. Several RFMOs closed areas where VMEs occurred or were likely to occur. CCAMLR has implemented a set of regulations and guidelines to protect VMEs, particularly through CM 22-05 (2008) on restrictions on the use of bottom-trawling gear in high-seas areas of the Convention Area.[110] Since 2011, CCAMLR has closed further areas to bottom fishing based on the best scientific and technical information available.[103] CM 22-09, adopted in 2011, relates to the protection of registered VMEs within areas open to bottom fishing, in which bottom fishing was prohibited in the defined areas set out in its annex, except for scientific research activities agreed on by CCAMLR. It also adopted CM 22-07 (2013) on interim measures for bottom-fishing activities and CM 22-06 (2015) on bottom fishing in the Convention Area.[111]

72. GFCM reported that since 2006, it had declared seven fisheries restricted areas (including three in 2016). Furthermore, in 2013, the Commission had adopted resolution GFCM/37/2013/1 on area-based management of fisheries, including through the establishment of fisheries restricted areas in the GFCM Convention area and in coordination with the United Nations Environment Programme (UNEP) Mediterranean Action Plan initiatives on the establishment of specially protected areas of Mediterranean importance.[112] The Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, as amended in 2014, provides for the establishment of fisheries restricted areas for the protection of VMEs.

73. NAFO reported that since 2011, it had continued to refine management measures to protect VMEs, including through closures of seamounts to bottom fishing at its annual meeting in 2015.[105] NAFO closed 380,000 km^2 to bottom

[110] Contribution of Norway.

[111] Ibid. There are currently no bottom trawl fisheries in the CCAMLR area, only longline fisheries, primarily for tooth fish, with bottom contact.

[112] Instruments available from www.fao.org/3/a-ax392e.pdf.

fishing on seamounts and in other areas where such species were known or predicted to form significant concentrations.

74. The NAFO Scientific Council had noted that management through the closing of areas with significant concentrations of VME indicator species was the most effective measure for protecting VMEs in the NAFO Regulatory Area and that the need to implement encounter protocols gradually became redundant as the locations of the benthic VMEs became increasingly well-defined, which avoided issues associated with the implementation of complex move-on rules.[113]

75. NEAFC reported that areas where VMEs occurred or were likely to occur had been closed to bottom fishing. That included large precautionary area closures where no specific VMEs had been explicitly identified. Such closures included sub-areas within "existing bottom fishing areas" (see para. 82 below).

76. SEAFO reported that its Scientific Committee had agreed to create a set of closures constituting a biogeographically representative selection of sub-areas likely to have VMEs. Owing to limited information being available, the Committee had applied the precautionary approach. Consequently, it had focused its analyses on seamounts and seamount complexes with summit depths shallower than 2,000 metres.

77. In 2006, SEAFO first closed 11 areas to bottom fishing. Those closures were reviewed seven times within eight years, reflecting a progression of measures, as knowledge of bottom fisheries and of known or likely VMEs, increased. At present, 11 areas were closed to all gears and one area was closed to all gears except pots and longlines, following the classification of corals in some knolls in that area as VMEs.

78. SPRFMO CMM 2.03 required closing areas where VMEs were known to occur or likely to occur based on the best available scientific information, unless the SPRFMO Commission determined that such bottom fishing would not have significant adverse impacts on VMEs.[103]

(c) Developing protocols for encounters with vulnerable marine ecosystems (paragraph 119 (c) of resolution 64/72)

79. Several RFMOs have established and implemented encounter protocols, including the definition of VME indicator species and thresholds, move-on rules, including reporting procedures, and temporary closures and subsequent procedures for deciding whether or not to reopen the area.

80. CCAMLR reported that encounters with potential VMEs during the course of bottom fishing were regulated under CM 22-07, which defined "risk area", "VME indicator organism", "VME indicator unit" and encounter parameters, and specified the action required when indicator organisms were encountered. In that regard, the Scientific Committee had recommended practices and mitigation measures, including the cessation of fishing activities, if needed, when evidence of a VME was encountered. CM 22-06 included guidelines specifying categories of information to be included in notifications to the CCAMLR secretariat by Contracting Parties when a VME was encountered.

[113] Northwest Atlantic Fisheries Organization, report on the meeting of the Scientific Council, June 2013, available from http://archive.nafo.int/open/sc/2013/scs13-17.pdf.

81. To mitigate the likelihood of encounters outside of closed areas, NAFO reported that it had established thresholds for significant encounters, on the basis of scientific assessments inside the fishing footprint and on adjacent continental slopes, at 7 kg per haul for sea pens, 60 kg for other live coral and 300 kg for sponges as catch per set. Catches in excess of those amounts triggered a move-on rule, requiring a vessel to move two nautical miles before recommencing fishing operations and to inform its national administration of the encounter, which would then pass the information to the NAFO secretariat.

82. NEAFC reported that it had adopted a definition of what constituted an encounter with a possible VME, based on advice from ICES, with separate rules for trawling and longlining. It had also adopted an extensive list of VME indicator species. Where the vessel crew was not expected to have the expertise needed to identify individual species, threshold levels applied to the presence of any live coral or any live sponge. There were explicit rules on the process following such an encounter, including a temporary closure of the relevant area. For trawling, the area was a polygon of two nautical miles on either side of the track of the trawl. For other bottom-fishing gears it was an area with a radius of two nautical miles around the position that the evidence suggested was closest to the exact location of the encounter. The temporary closure applied to all Contracting Parties and remained in force until the Commission had acted on the advice from an assessment as to whether the area had, or was likely to have, a VME.

83. SEAFO indicated that CM 30/15 contained a definition of an encounter as an incidental catch of a VME indicator species above threshold levels. The identification of indicator species was to be made on a case-by-case basis through assessment by the Scientific Committee. Furthermore, the CM contained protocols on the reporting of an encounter. The Scientific Committee had compiled a provisional list of benthic invertebrate VME indicator species/groups and the Commission had adopted a coral and sponges guide to assist observers on vessels with the identification of VME indicator species.

84. Reflecting the fact that the predominant bottom fishing method is benthic longlining, CCAMLR has established thresholds based on volume, while NAFO, NEAFC and SEAFO have all established weight-based thresholds. For each of those RFMO/As, the thresholds were developed in coordination with the relevant scientific body. Both NAFO and NEAFC have re-evaluated their initial thresholds and lowered the thresholds for sponge fields and deep-sea corals. It was reported that encounters had been reported at CCAMLR, but none had been reported to date at NAFO and NEAFC. NAFO, NEAFC and SEAFO had only identified types of hard corals and sponge fields as indicator species.[105]

85. Until its Scientific Committee had developed advice, SPRFMO required its members and cooperating non-Contracting Parties engaging in bottom fishing to establish threshold levels for encounters with VMEs for vessels flying their flag, taking into account paragraph 68 of the Guidelines. It also required vessels to either apply a move-on rule throughout the footprint, whereby they needed to cease bottom-fishing activities within five nautical miles of any site where evidence of a VME was encountered above threshold levels, or to fish according to a spatial management approach, whereby the fishing footprint was divided, based on scientific advice, into areas open to bottom fishing, areas closed to bottom fishing and areas where vessels were required to cease bottom-fishing activities within five

nautical miles of any site where evidence of a VME was encountered above threshold levels. It further required encounters with VMEs to be reported to the secretariat.[114]

86. Participants in the negotiations to establish NPFC have adopted interim measures (see also paras. 51 and 125 of the present report), which include protocols for encounters with VMEs. Discussions regarding the adoption of an encounter protocol at GFCM began in 2016.

3. Measures to ensure the long-term sustainability of deep-sea fish stocks and non-target species and the rebuilding of depleted stocks (paragraph 119 (d) of resolution 64/72)

87. CCAMLR reported that it had developed conservation measures consistent with paragraph 119 (d) of resolution 64/72. In particular, it highlighted measures on monitoring, control and surveillance; the regulation of mesh size; catch and effort reporting; prohibitions on directed fishing; measures for exploratory fisheries; and precautionary catch limits.

88. NAFO reported establishing management measures for fishing opportunities in line with its precautionary approach framework, including catch and effort limitations, an effort allocation scheme for shrimp, product-labelling requirements, catch monitoring and a mandatory vessel monitoring system, a joint inspection and surveillance scheme, an observer programme, port State control measures, and a non-Contracting Party scheme, with measures to combat illegal, unreported and unregulated fishing.

89. NEAFC noted that ICES had developed an approach to providing quantitative scientific advice for data-poor fish stocks. It also reported on a number of legally binding CMMs in place, consistent with the interim guidelines on the management of deep-sea species, approved in 2014, and an interim categorization of deep-sea species, adopted in 2015. That included measures prohibiting fisheries directed at 21 deep-sea species and stipulating that the Contracting Parties should take measures to minimize by-catches of those species, measures with explicit catch limits for two deep-sea fish stocks, and general measures that limited the overall fishing effort for all deep-sea fisheries. NEAFC also had a seasonal closure to protect known spawning aggregations of one deep-sea species. It also implemented a system of monitoring, control and surveillance (see section III. A. 4 above).

90. SEAFO reported that based on the best available scientific advice, the Commission had adopted two recommendations and several conservation measures relating to the conservation and management of deep-sea fish stocks and non-target species, including, since 2011, CM 25/12 on reducing the incidental by-catch of seabirds in the SEAFO Convention Area; CM 31/15 on total allowable catches and related conditions for Patagonian toothfish, deep-sea red crab, alfonsino, orange roughy and pelagic armourhead for 2016 in the SEAFO Convention Area; and a system of observation, inspection, compliance and enforcement, which included an article on periodic reporting of catch and fishing effort by Contracting Parties (see section III. A. 4 for more information on the system).

[114] Contributions of Australia and New Zealand.

91. SPRFMO adopted CMM 2.03 in 2014 in order to, inter alia, limit bottom-fishing catch in the Convention Area to a level that does not exceed the annual average over the period from 1 January 2002 to 31 December 2006 and restrict bottom fishing to within the bottom-fishing footprint (the spatial extent and distribution of historical bottom fishing over the period from 1 January 2002 to 31 December 2006).[103] Under CMM 2.03, based on the Guidelines, scientific research and stock assessment were conducted by the SPRFMO Scientific Committee during its annual meeting to generate advice for the adoption of appropriate regulations by the Commission. The work included the development of reference points, sound fishery management strategies and rebuilding plans for declining stocks.[101]

4. Establishing mechanisms to promote and enhance compliance with applicable measures (paragraph 129 (d) of resolution 66/68)

92. CCAMLR reported on its compliance conservation measures in place, a number of which had come into force since 2011, including the marking of fishing vessels and fishing gear (2014); port inspections of fishing vessels carrying Antarctic marine living resources (2015); and automated satellite-linked vessel monitoring systems (2015). CCAMLR noted that in relation to paragraph 129 (d) of resolution 66/68, it had adopted CM 10-10, the CCAMLR compliance evaluation procedure (2015), which served as a tool to assist in monitoring the compliance of members with the decisions of the Commission.

93. GFCM has established a number of measures related to monitoring, control and surveillance, including vessel monitoring system requirements, as well as a regional scheme on port State measures to combat illegal, unreported and unregulated fishing. Through its Compliance Committee, GFCM assesses on an annual basis compliance with obligations stemming from its measures vis-à-vis Contracting Parties, cooperating non-Contracting Parties and other relevant non-Contracting Parties.[115]

94. The NAFO observer programme, outlined in article 30 of its conservation and enforcement measures, required at least one independent and impartial observer, unless certain conditions were met, including the vessel having a vessel monitoring system and an electronic observer and catch report system in place, which had been tested by NAFO and Contracting Parties. Contracting parties were required to ensure that their observers monitored compliance with the conservation and enforcement measures, including by verifying logbook entries on the composition of catch by species, quantities, live and processed weight, as well as recording gear type, mesh size, attachments, catch and effort data, coordinates, depth, time of gear on the bottom, catch composition, discards and retained undersized fish.

95. NEAFC reported that it had implemented an extensive system of monitoring, control and surveillance, as set out in its scheme of control and enforcement, which is publicly available on its website.[116] It includes monitoring of vessel access, a satellite-based vessel monitoring system, regular catch reporting, at-sea inspections and port State measures. Following indications that the Contracting Parties may not have been monitoring their vessels sufficiently in real time, the NEAFC secretariat reported that since early 2016, it had been actively monitoring the vessel monitoring

[115] GFCM response to the voluntary questionnaire.
[116] See www.neafc.org/scheme.

system in real time for activities that indicated possible bottom fishing in areas where bottom fisheries were not authorized, with a view to immediately informing the flag State and requesting it to investigate the issue further. The flag State would then be required to report on the results of such investigations.

96. SEAFO reported on its system of observation, inspection, compliance and enforcement, which addressed control measures, monitoring of fisheries, at-sea inspections, a vessel monitoring system, a scientific observer programme and port State control. It contained a section on measures to promote compliance, which included articles on sightings and identifications of non-Contracting Party vessels and listing of illegal, unreported and unregulated vessels. SEAFO has also concluded an agreement with CCAMLR, NAFO and NEAFC to jointly list such vessels.

97. SPRFMO CMM 3.03 compliance monitoring scheme set up a process to annually monitor compliance of its members and cooperating non-Contracting Parties with obligations arising under the Convention and CMMs adopted by the Commission, designed to assess compliance by members and cooperating non-Contracting Parties with their obligations under the Convention and CMMs; identify areas in which technical assistance or capacity-building might be needed to assist members and cooperating non-Contracting Parties to achieve compliance; identify aspects of CMMs, which might require improvement or amendment to facilitate or advance their implementation; and take action against non-compliance through preventive and remedial options, including possible responses taking into account the reasons for and degree of non-compliance.[101]

B. Actions taken by States to regulate bottom fisheries

98. The following section describes the wide range of measures and actions reported by States[117] to give effect to resolutions 64/72 and 66/68 to address the impacts of bottom fisheries on VMEs and the long-term sustainability of deep-sea fish stocks.

99. At a general level, several respondents stressed the importance of the relevant resolutions of the General Assembly and the Guidelines in ensuring the long-term protection of VMEs and deep-sea species from the impacts of bottom fishing on the high seas. The United States of America noted that implementation of the commitments in resolutions 61/105, 64/72 and 66/68 continued to be uneven and more work in a number of areas was necessary to fulfil the goals and objectives set forth in those instruments.

[117] Owing to the low number of responses received by the Secretariat, the present section does not purport to provide a comprehensive overview of actions taken by States. States that are members of RFMO/As may have taken additional action through such bodies and implemented the decisions of such bodies.

1. Identifying vulnerable marine ecosystems on the basis of marine scientific research and other sources of information (paragraph 119 (a) of resolution 64/72, and paragraphs 132 and 133 of resolution 66/68)

100. Australia indicated that it was cooperating on research on deep-sea species as a target species in the SPRFMO Area and was seeking to cooperate on further research relating to stock assessments in the SIOFA Area.

101. In addition to the NEREIDA programme (see para. 54 above), Canada has participated in the European Union Blue Growth Horizon to research VMEs in the north Atlantic. Canada noted that it had undertaken annual stock surveys in the NAFO Area and contributed to the stock assessments underpinning the science advice given to NAFO.

102. The European Union reported that it had brought together data from visual surveys and multidisciplinary surveys of the sea floor to identify VMEs and inform the reassessment of the NAFO bottom fisheries. It also reported on Spain's programme of scientific mapping of the seabed in areas of the high seas where its bottom fisheries take place.

103. New Zealand reported on its contribution to the identification of VMEs in the CCAMLR area through information collected on its fishing vessels, including by observers, and information from its scientific research voyages to the Antarctic, as well as to the development of models to predict the distribution of VME indicator taxa.

104. Norway reported on the systematic mapping of the Norwegian sea floor since 2006, which has facilitated the identification of VMEs and is used as a basis for decision-making on fisheries management.[110]

105. Oman reported that it did not possess a high-seas fishing fleet, and had therefore not undertaken any research programmes, but that it was working to integrate available studies and information regarding the location of marine living resources.

106. The United States reported on a number of research projects to identify VMEs, including a multi-year collaboration to discover and characterize deep-sea coral habitats in the Gulf of Mexico and a multi-year deep-water mid-Atlantic canyons project to discover and characterize the sea floor communities that live in association with east coast submarine canyons. From 2009 through 2015, the United States had conducted three-year deep-sea research initiatives focused on mapping, modelling and understanding the ecological functions of deep-sea coral and sponge ecosystems, which included cooperative surveys with Canada for VMEs in both the Pacific and Atlantic Oceans. It had also recently begun a three-year deep-sea research and exploration effort to increase the understanding of VMEs in the north and south Pacific. It had developed a new deep-sea coral and sponge database, and collaborated with New Zealand to identify VMEs in the south Pacific.

2. Adopting conservation and management measures to protect vulnerable marine ecosystems or closing areas to bottom fishing until such measures are in place (paragraph 132 of resolution 66/68)

107. Several respondents reported on a wide range of measures to regulate bottom-fishing vessels or close areas to bottom fishing, including through issuance of

fishing permits, limits on the use of fishing gear, area-based management tools and monitoring, control and surveillance mechanisms.

108. As part of its commitment to relevant interim measures, Australia noted that it had prepared an impact assessment for its bottom-fishing activities in the SPRFMO and SIOFA Areas, which took into account the individual, collective and cumulative impacts of fishing on VMEs and had been made publicly available. The assessments indicated that the risk of significant adverse impacts on VMEs from Australian vessels was low for demersal trawl and demersal auto-longline and negligible for mid-water trawl and drop-line. Australia reported that it might review its bottom-fishing impact assessments if new information became available, or if fishing activity changed. It also reported on recent research within areas of national jurisdiction on the assessment of the vulnerability of benthic habitats to impacts by demersal gears that could be applied in areas beyond national jurisdiction in considering the impacts of bottom fishing.

109. Canada reported that all high-seas fishing by its vessels and activities occurring in the waters of another State were subject to domestic licensing requirements, which required compliance with Canadian laws in all areas of the high seas, including areas where no RFMO existed. It applied an ecological risk assessment framework to help identify the level of ecological risk of fishing activity and its impacts on sensitive benthic areas in the marine environment, in particular cold-water corals and sponges. Scientific assessments and research were peer reviewed and made publicly available.

110. The European Union indicated that its member States could only issue special fishing permits for the use of bottom-fishing gears on the high seas if specific conditions were met, including those regarding prior impact assessments, unforeseen encounters with VMEs, area closures and an observer scheme. The use of bottom-fishing gears was prohibited in areas where no proper scientific assessment had been carried out and made available. The protection of sensitive and vulnerable habitats in areas beyond national jurisdiction was also promoted by the establishment of fishing protected areas.

111. The European Union had established a specific access regime for fishing vessels engaged in the deep-sea fisheries of the north-east Atlantic, consisting of four main components: capacity restriction, data collection, effort monitoring and control. A proposal to update the regulation was currently being considered, which would represent a shift towards selective, science-based fishing for deep-sea species, incorporating the precautionary approach and ensuring minimal impact of fishing gears on vulnerable deep-sea ecosystems. The European Union also reported on a range of measures for managing deep-sea fisheries, including under its Common Fisheries Policy, such as restrictive fishing permits, reporting obligations and requirements for satellite tracking devices and scientific observers.

112. The European Union noted that, in application of its regulations, Spain had restricted fishing in the south-west Atlantic to the area defined by the historical footprint of the fishery. Spain had closed off nine areas with a total extent of 41,000 km^2 to bottom fishing by its fleet.

113. Iceland reported that vessels fishing outside areas of national jurisdiction were subject to its national legal regime aimed at fulfilling general obligations to protect living marine resources.

114. New Zealand noted its qualitative risk and impact assessment for its bottom trawl and bottom longline fishing operations in the SPRFMO Convention Area, as required by the relevant interim measures for bottom fisheries, which had been reviewed by the SPRFMO Scientific Working Group. The assessment was used as the basis for the development of a management approach for New Zealand bottom trawling operations in the SPRFMO Area.

115. In 2011, Norway adopted a regulation on bottom fishing in its exclusive economic zone, which addresses the requirements of General Assembly resolution 61/105 by, inter alia, establishing a footprint at depths above 1,000 metres. It also adopted legislation to protect cold water coral reefs, under which 18 reefs have been given special protection. Since 1999, a general duty of care has been in place for Norwegian flagged vessels during fishing operations near known coral reefs, both in areas under Norwegian fisheries jurisdiction and all other areas.

116. In addition to gear restrictions, Oman reported that its fishermen were required to declare equipment lost during fishing activities and to place markings on equipment during use, and that it had prohibited the use of monofilament fishing nets on the whole fishing fleet.

117. The Philippines had ensured effective control over its distant-water fishing fleets by requiring strict compliance with the terms of fishing permits and by monitoring, control and surveillance mechanisms, such as observer coverage.

118. The United States reported that none of its vessels were authorized to conduct bottom fisheries in areas beyond national jurisdiction outside RFMOs. Authorization to conduct bottom fishing on the high seas outside RFMOs would only be granted upon completion of an assessment of impacts on the environment, including on VMEs. The United States was working to improve the monitoring of its fishing vessels on the high seas, including through adjustments to permitting and reporting procedures, requirements for installation and operation of enhanced mobile transceiver units for vessel monitoring, observer coverage, reporting of trans-shipments taking place on the high seas and protection of VMEs.

119. A number of respondents also reported on actions taken to prevent significant adverse impacts on VMEs within areas of national jurisdiction. Canada reported on a number of fishery closures to protect corals and/or sponges from fishery-related impacts. Iraq indicated that its fishing vessels did not use bottom-trawl gear within the territorial sea. Oman prohibited all bottom fishing in its maritime zones in 2011. Chile reported that it had prohibited all bottom-fishing activities on all seamounts lying in its maritime zones which are indicative of VMEs, in an area of 68,065 km^2.

3. Measures to ensure the long-term sustainability of deep-sea fish stocks and non-target species, and the rebuilding of depleted stocks (paragraph 119 (d) of resolution 64/72)

120. Several respondents reported on efforts to ensure the long-term sustainability of deep-sea fish stocks and non-target species and the rebuilding of depleted stock, including scientific research programmes, including in the context of their work through RFMO/As (see section III. A. 3 above).

121. Canada reported on guidelines for the development of rebuilding plans for severely depleted fish stocks to ensure that such plans were developed in a nationally coherent manner, consistent with the precautionary approach. New

Zealand indicated that it was using a predictive habitat model to develop estimates of potential orange roughy biomass in the SPRFMO area, as a basis for making recommendations on orange roughy catches likely to be sustainable.

122. The European Union reported on measures which provided for the fixing and allocation of fishing opportunities, prohibition of discards and landing obligations, establishment of protected areas and collection of scientific data. It also noted its general legislative frameworks for the protection of VMEs and marine biodiversity; policies to reduce the impact of economic activities on the marine environment; participation in regional seas conventions that provided for international cooperation on marine ecosystem protection; and financial support and investment in measures that contributed to the protection of VMEs and to restoring marine biodiversity and ecosystems.

4. Establishing new regional fisheries management organizations or arrangements and prohibiting bottom-fishing activities where no regional fisheries management organization or arrangement exists (paragraphs 120 and 124 of resolution 64/72)

123. Since the report of the Secretary-General to the General Assembly in 2011 (A/66/307), three new RFMO/As have been established, namely SIOFA and SPRFMO in 2012 and NPFC in 2015 (see paras. 48-51 above). In addition, the Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean was signed by all five Arctic Ocean coastal States in 2015. It expresses an intention to implement certain interim measures, acknowledges the interest of other States in preventing unregulated high-seas fisheries and envisions a broader process to develop measures that would include commitments by all interested States. Canada reported that the relevant coastal States were working to develop measures consistent with the Declaration.

124. Australia reported that, since SIOFA had not established binding CMMs, it managed fishing vessels operating in the SIOFA Regulatory Area consistent with the Guidelines and under conditions similar to those applicable to vessels operating in the SPRFMO Area. It was working with SIOFA parties towards a spatial management approach. Australia monitored the total catch taken from bottom fishing in the SIOFA Regulatory Area against the average annual catch level between 1999 and 2009.

125. The United States noted that participants in the negotiations of NPFC had developed interim measures, including those applicable to the north-eastern Pacific Ocean in 2011, for use in the identification and assessment of marine species and VMEs and a protocol for exploratory fisheries, and were beginning to cooperate to ensure the long-term and sustainable use of fisheries in the convention area.

126. Several States reported that their vessels were not authorized to conduct bottom fisheries in areas beyond national jurisdiction or did not fish outside areas regulated by RFMO/As (Bulgaria, Canada, Iraq, New Zealand, Philippines, Oman and United States). Bulgaria reported that fishing vessels in its register were not engaged in deep-sea fisheries in areas beyond national jurisdiction, Canada noted that fishing by its vessels in areas beyond national jurisdiction occurred almost exclusively in the convention areas of RFMO/As. Oman indicated that any future authorization to conduct bottom fishing in areas beyond national jurisdiction would be granted in accordance with the Guidelines. Iraq reported that it had no ships

fishing on the high seas. The Philippines noted that its vessels were not currently engaged in bottom fishing on the high seas.

5. Implementing measures adopted by regional fisheries management organizations or arrangements

127. Several States reported on their actions to support the adoption and implementation of CMMs in RFMO/As to which they belonged, to regulate bottom fishing and protect VMEs from the impact of bottom-fishing activities, pursuant to relevant resolutions of the General Assembly (Australia, Canada, European Union, Iceland, New Zealand, Norway, Philippines and United States). A number of States reported on actions taken at the national level to implement CMMs adopted in RFMO/As to address the impacts of bottom fishing on VMEs, including through encounter protocols (Australia and New Zealand), licensing systems (Australia, Canada, Iceland, New Zealand and Philippines), catch limits (New Zealand), monitoring, control and surveillance mechanisms (Canada and New Zealand) and impact assessments (Australia, New Zealand and Oman).

128. Some States have also adopted monitoring, control and surveillance measures. New Zealand noted that it had undertaken pre- and post-trip inspections of vessels heading into the CCAMLR area and aerial and surface patrolling and had reported all sightings of illegal activities to the CCAMLR secretariat. The Philippines had integrated into its newly amended fisheries code a penal provision for violation of CMMs enacted by the RFMO/As or through international or regional agreements relative to fishing in high seas convention areas.

C. Actions taken by States and competent regional fisheries management organizations and arrangements in cooperating to undertake marine scientific research, collect and exchange scientific and technical data and information and develop or strengthen data-collection standards, procedures and protocols and research programmes

1. Exchanging best practices and developing regional standards (paragraph 122 (a) of resolution 64/72)

129. The European Union reported that its member States provided their respective survey data to ICES. In that regard, data as well as best practices were made available to the RFMOs to which the European Union was a party.

130. NEAFC reported that ICES conducted extensive work relating to developing scientific best practices and standards.

131. NAFO noted that it participated in regular exchanges and international forums, mediated through FAO or bilaterally with other RFMOs, to develop and implement best practices.

132. SEAFO reported on its active role in promoting and setting standards, as well as enhancing the exchange of best practices, by participating in various forums. For instance, SEAFO co-authored a chapter of a publication by FAO to review best practices by an RFMO in deep fisheries.

2. Making assessments and adopted measures publicly available (paragraph 122 (b) of resolution 64/72, and paragraph 130 of resolution 66/68)

133. Generally, RFMOs with the competence to regulate bottom fisheries reported that they maintained websites that detailed and publicized conservation measures that had been adopted by their Contracting Parties.

134. In addition, several States reported on the publication of assessments or measures by RFMOs. Examples were provided by Australia and New Zealand. Australia noted that an impact assessment for its bottom-fishing activities in the SPRFMO and SIOFA Areas prepared in 2011 had been made publicly available (see para. 108 above). New Zealand indicated that SPRFMO and CCAMLR impact assessments were publicly available on their respective websites.

135. NAFO reported that all assessments of the extent of VMEs in its Regulatory Area and the assessments of any impacts of fishing activity on them were publicly available on its website and in the FAO VME database. While details of exploratory fishery activities were considered confidential, summaries of the discussion on the impacts of such activities could also be found in NAFO Scientific Council reports.

136. NEAFC reported that information made publicly available on its website included reports on all of its meetings, including those where assessments were acted on, and various legally binding CMMs relating to deep-sea species and the protection of VMEs.

137. SEAFO reported that the impact assessments provided by Contracting Parties were evaluated by its Scientific Committee and published in the annual SEAFO Scientific reports, together with assessments conducted by SEAFO scientists, and made available on the SEAFO web page. Catch data was also submitted to FAO annually.

3. Submission by flag States of lists of authorized vessels and relevant adopted measures to FAO (paragraph 122 (c) of resolution 64/72)

138. Australia reported that it had provided all data required by RFMO/As to which it was a party and had also provided data to FAO when requested. New Zealand indicated that it had provided a list to FAO of its flagged vessels that had approval to fish on the high seas using bottom-fishing methods.

139. The United States reported that, as vessels flying its flag were not authorized to conduct bottom fisheries in areas beyond national jurisdiction outside of RFMOs, it did not maintain a list of such vessels.

4. Sharing information on vessels engaged in bottom fishing where the flag State responsible cannot be determined (paragraph 122 (d) of resolution 64/72)

140. NEAFC reported that any vessel identified as engaging in or supporting fishing activities in the NEAFC area that was not flying the flag of a Contracting Party was placed on the list of suspected illegal, unreported and unregulated vessels ("A" list) and if the vessel was confirmed as having engaged in or supported illegal, unreported and unregulated fisheries, it was placed on the list of confirmed illegal, unreported and unregulated vessels ("B" list), which was shared with other RFMOs and made publicly available on the NEAFC website. NAFO reported that it maintained a list of vessels linked to illegal, unreported and unregulated fishing on

its website and exchanged details of them with other RFMOs (for additional information on mechanisms to enhance and promote compliance with applicable measures, see section III A 4).

5. Developing or strengthening of data collection standards, procedures and protocols and research programmes (paragraph 123 of resolution 64/72)

141. In addition to the publication of its guide (see para. 57 above), NAFO indicated that it had adopted measures requiring all catches of VME indicator species to be recorded at the lowest taxonomic level possible by observers and that to facilitate this, the secretariat had forwarded to FAO a list of VME indicator species, which currently lacked aquatic sciences and fisheries information system (ASFIS) codes, for inclusion in the 2016 FAO species list.

142. NEAFC reported that its comprehensive recommendation on the protection of VMEs included annexes on a VME data collection protocol, an assessment of exploratory bottom-fishing activities and on VME indicator species.

143. SEAFO reported that its Commission had adopted data collection protocols, developed by its Scientific Committee, which ensured that a representative part of all catches were sampled. Its marine research guidelines, available on the SEAFO web page, were developed to ensure that high-quality science could be conducted freely and to the benefit of all, in a manner which did not cause significant adverse impacts on marine ecosystems and organisms, including fisheries resources.

D. Recognition of the special circumstances and requirements of developing States[118]

144. The special requirements of developing States were recognized in the constitutive instruments of several RFMO/As, including SEAFO, GFCM, SPRFMO and SIOFA. Some States and RFMO/As reported that they had recognized the special circumstances and requirements of developing States by engaging in capacity-building and assisting them.

145. The United States reported that its National Oceanic and Atmospheric Administration was a partner in the programme on global sustainable fisheries management and biodiversity conservation in the areas beyond national jurisdiction of the Global Environment Facility which, inter alia, provided assistance to developing countries to implement the Guidelines. It had also developed a field sampling guide on corals in English, Korean and Japanese that could be used by scientific observers operating over the Emperor Seamounts. New Zealand had assisted Pacific small island developing States by supporting the sustainable management of offshore fisheries, with focused areas of cooperation, including fisheries management frameworks at the national, regional and subregional levels, and the implementation of successful fisheries surveillance and enforcement regimes.

146. In 2009, CCAMLR emphasized the importance of fair burden sharing, having better data sharing, enhancing participation in working groups, exchanging scientists and relevant documentation. It has established a Scientific Committee

[118] See General Assembly resolutions 64/72, para. 121, and 66/68, para. 134.

scholarship, using funds donated by Norway.[119] SPRFMO maintains a budget for developing States to attend its meetings.[120]

147. The NAFO development internship programme has provided training for citizens of developing States.[121]

148. NEAFC has engaged in projects focused on working with developing States and capacity-building. SEAFO established a Special Requirements Fund in 2009 to financially support initiatives in developing States. It also sponsored two observer training workshops and several capacity-building opportunities arose during the research cruise of the *RV Dr. Fridtjof Nansen* referred to in paragraph 59 above.

IV. Activities of the Food and Agriculture Organization of the United Nations to promote the regulation of bottom fisheries and the protection of vulnerable marine ecosystems

149. FAO reported on a number of actions taken to assist the implementation of the relevant provisions of General Assembly resolutions 64/72 and 66/68, including paragraphs 135 and 136 of resolution 66/68.

150. FAO continued its work to assist in the implementation of the Guidelines. Its deep-sea fisheries programme was implemented through targeted contributions and through projects supported by various donors.[122] In 2014, a project on sustainable fisheries management and biodiversity conservation of deep-sea ecosystems in the areas beyond national jurisdiction was launched to contribute to strengthening international policy and legal frameworks; supporting planning and management in deep-sea fisheries; and reducing impacts on VMEs. FAO is also a partner in SponGES, a project on "Deep-sea sponge grounds ecosystems of the North Atlantic: an integrated approach towards their preservation and sustainable exploitation".

151. With regard to the research cruise of the *R/V Dr Fridtjof Nansen* in 2015 in the Convention Area of SEAFO, follow-up activities include capacity-development activities for further analysis of the reference collection and publication of the results. FAO also conducted a trans-Indian Ocean survey from Indonesia to South Africa. It organized and/or supported a series of four regional multi-stakeholder workshops to facilitate information-sharing and discussions on issues related to VMEs. In the Caribbean, the workshop led to the identification of VMEs by the Western Central Atlantic Fishery Commission. One additional regional workshop (for the central eastern Atlantic) is planned for 2016. In addition, a multi-stakeholder workshop was held in May 2015 in collaboration with the Norwegian Institute of Marine Research to facilitate the sharing of best practices and effective solutions on VME encounter protocols and impact assessments.

[119] See www.ccamlr.org/en/publications/special-requirements-developing-states.

[120] See www.sprfmo.int/assets/Meetings/Meetings-2013-plus/Commission-Meetings/4th-Commission-Meeting-2016-Valdivia-Chile/FAC-03-07-Budget-categories-for-the-Scientific-Committee-and developing-states.pdf.

[121] See Northwest Atlantic Fisheries Organization, *NAFO Performance Assessment Review 2011*, 5 August 2011, available from www.nafo.int/publications/PAR-2011.pdf.

[122] See www.fao.org/fishery/topic/16160/en.

152. Regional training workshops on the identification of deep-sea cartilaginous fishes of the Indian Ocean and the southern Atlantic Ocean were held in 2014 and 2015, respectively, to improve the capabilities of scientists from the region in the identification of those species. After consultations with relevant stakeholders, FAO finalized species guides and catalogues of the deep-sea cartilaginous fishes of the Indian Ocean and the south-eastern Atlantic for use on board vessels by observers, scientists and non-scientific personnel. The development of similar tools has been initiated for the south-eastern Pacific region and will be finalized in 2016.

153. A manual on the collection of biological data on deep-sea species is to be published in 2016. In addition, an electronic application (SmartForms) for reporting on-board observations related to VMEs and biodiversity reporting from deep-sea fisheries vessels is currently being developed by FAO and an interested group of RFMOs.

154. Work has been initiated to update and expand the *Worldwide Review of Bottom Fisheries in the High Seas* (FAO, 2009) by addressing information gaps identified in the last review, describing progress made on the monitoring of data-poor deep-sea stocks and benefiting from updated stock assessments for key species. A global review of alfonsino fisheries, biology and management is available[74] and a similar review of the biology and assessment of orange roughy is under way. FAO is also working to analyse existing policy and legal frameworks for addressing biodiversity in sustainable fisheries in the project on sustainable fisheries management and biodiversity conservation of deep-sea ecosystems in the areas beyond national jurisdiction and develop practical tools to improve their implementation. The information reported to FAO in relation to General Assembly resolution 61/105 was made publicly available through the FAO website. Capacity development has been incorporated at various levels in FAO activities supporting implementation of the Guidelines. That includes the use of species identification tools, on-the-job training during research surveys and training on analysing research information, as well as capacity development in relation to all elements of the Guidelines.

155. The VME portal and database was launched in December 2014 to establish a global database of information on vulnerable marine ecosystems in areas beyond national jurisdiction. It serves as an information sharing-platform as well as an awareness-building tool to promote the transparency and accessibility of work that has been done in relation to VMEs to the general public. Furthermore, FAO reported that a review entitled "Vulnerable marine ecosystems: processes and practices in the high seas" was close to being finalized. The main chapters described actions taken in regions covered by RFMO/As and regions where there were no regional management bodies. Domestic measures applied by States to their flagged high-seas fishing vessels were only included when particularly relevant, such as in areas where there were no current regional measures from a regional body.

V. Concluding remarks

156. In the past five years, steady progress has been made in understanding, inter alia, the characteristics of different types of possible VMEs and the diverse impacts of different bottom-fishing gears, as well as the characteristics and status of some deep-sea fish stocks, although the overall state of knowledge remains limited. To address the issue of insufficient data, new methods are being developed for stock

assessments of deep-sea fish where data is poor, or is only available from fish catches. In the absence of observational data on the presence of VMEs, habitat suitability modelling is being used as a guide to VMEs and can now be used in analysing the risk of encounters of bottom fisheries with VMEs. While bottom trawls have had the greatest impact, bottom longlining is increasingly recognized as capable of damaging VMEs, among other bottom-fishing gears. Technical modifications of fishing gear or changes in fishing practices have been implemented as a way to reduce impacts, but with limited success.

157. Significant progress has been made in terms of the establishment of new RFMO/As since 2011. Based on the responses received from RFMO/As and several States, there has also been good progress in the identification of VME indicator species by a number of RFMO/As and States, through the conduct of research programmes and/or the elaboration of the definition of VMEs in the context of their regions. In some RFMO/As, where progress has been limited, individual members have undertaken work to identify VME indicator species and/or their distribution.

158. RFMO/As have adopted a number of CMMs relating to VME protection, including regarding the conduct of bottom fisheries if they are assessed as not having significant adverse impacts on VMEs; the submission of preliminary assessments of impacts; and mitigation measures. However, information on the conduct of assessments in relation to cumulative impacts appears limited, except in some RFMO/As. In addition, the requirement of impact assessments in some RFMO/As appears to provide insufficient protection within the existing fishing footprints. Flag States have adopted measures to regulate bottom fishing by vessels flying their flag, including for areas where there is no RFMO/A competent to regulate bottom fisheries. Such measures range from the prohibition of fishing to the granting of licences after impact assessments have been carried out.

159. Several RFMO/As have closed areas where VMEs occur, or are likely to occur. In areas where there is no RFMO/A, some States have closed certain areas with VMEs to bottom fisheries by vessels flying their flag. Some RFMO/As have reviewed and updated such closures in light of new information regarding VMEs and deep-sea fish stocks. Other RFMO/As could consider similar actions.

160. Several RFMO/As have established and implemented encounter protocols, including thresholds levels for VME indicator species, move-on rules and temporary or permanent closures. While conservative threshold values established by some RFMO/As would enable the full implementation of the relevant paragraphs of General Assembly resolutions 64/72 and 66/68, thresholds set by other RFMO/As are too high to provide effective protection for VMEs. In addition, the requirement of "live" by-catch species by some RFMO/As may prevent them from taking timely action based on the identification of VMEs. Some RFMO/As have only identified types of hard corals and sponge fields as indicator species. Members of some RFMO/As have yet to agree on thresholds for encounter protocols. Furthermore, difficulties associated with the implementation of encounter protocols, including move-on rules, remain. All in all, whether or not existing encounter protocols, including threshold levels, are providing sufficient protection for VMEs should be further investigated.

161. A number of RFMO/As have adopted CMMs to ensure the long-term sustainability of deep-sea fish stocks, including catch and effort reporting, gear restrictions, measures for exploratory fisheries, precautionary catch limits and

prohibitions on directed fishing. Some RFMO/As have yet to adopt a full range of measures, for example setting catch/effort limits.

162. In addition to the measures outlined above, a number of other actions addressing other parts of the relevant resolutions have been adopted by RFMO/As and States, including cooperation to undertake marine scientific research; the collection and exchange of scientific and technical data and information, and development or strengthening of data-collection standards, procedures and protocols and research programmes; and capacity-building activities for developing States. In regard to the last issue, a limited number of States reported on their capacity-building activities for managing bottom fisheries specifically. Developing States will need effective assistance in that regard.

163. Overall, while a number of actions have been taken, implementation of resolutions 64/72 and 66/68 on a global scale continues to be uneven and further efforts are needed. Unless timely actions are taken by all the stakeholders concerned, overfishing of deep-sea species is likely to continue and some VMEs will not be adequately protected from significant adverse impacts. If fully implemented, however, resolutions 64/72 and 66/68 and the Guidelines continue to provide a good basis for protecting VMEs from significant adverse impacts resulting from bottom fishing and ensuring the long-term sustainability of deep-sea fish stocks.

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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the forty-eighth report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, submitted pursuant to General Assembly resolution 70/87.

* A/71/150.

** The present report was submitted after the deadline in order to reflect the most recent developments since the annual mission of the Special Committee to the region in May 2016.

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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Summary

The present report contains information regarding the efforts of the Special Committee to implement its mandate and on the human rights situation in the occupied Arab territories over the past year. The report includes information on consultations with Member States in Geneva in March 2016, followed by a mission to Jordan in May 2016. It addresses the situation of Palestinian detainees, including children in Israeli detention facilities. The report also focuses on the escalation of violence in the West Bank, including East Jerusalem, which began in September 2015, and related concerns of use of excessive force by the Israeli security forces; Israeli policies and practices related to settlement expansion and settler violence in the Occupied Palestinian Territory and the occupied Syrian Golan; demolition of homes and forcible transfer of Palestinians; interference by Israel with international humanitarian assistance; the dire humanitarian situation in Gaza, and the lack of accountability of and lack of faith in the Israeli justice system. The Special Committee further examines issues relating to the exploitation of natural resources in the Occupied Palestinian Territory and the occupied Syrian Golan.

Contents

		Page
I.	Introduction	4
II.	Mandate	4
III.	Activities of the Special Committee	4
	A. Consultations with Member States in Geneva	4
	B. Field mission to investigate Israel practices	5
IV.	Situation of human rights in the Occupied Palestinian Territory	6
	A. Settlement expansion	7
	B. Demolitions and the obstruction of humanitarian assistance	7
	C. Forcible transfer in a coercive environment	8
	D. Escalation of violence in the occupied West Bank, including East Jerusalem	11
	E. Impact of the escalation of violence on Palestinian communities	12
	F. Attacks of medical personnel and ambulances	13
	G. Retrieval of dead bodies	13
	H. Punitive demolitions	14
	I. Lack of faith in the Israeli judicial system	15
	J. Threats and intimidation against human rights defenders	17
	K. Situation of Palestinians in detention	18
	L. Human rights situation in Gaza	19
	M. Energy dependence and exploitation of natural resources	21
V.	Human rights situation in the occupied Syrian Golan	22
VI.	Recommendations	23

I. Introduction

1. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories was established in 1968 by the General Assembly in its resolution 2443 (XXIII). The Special Committee is currently composed of three Member States: Sri Lanka (Chair), Malaysia and Senegal. In 2016, the Special Committee was represented by three members: the Permanent Representative of Sri Lanka to the United Nations in New York, Amrith Rohan Perera; the Permanent Representative of Malaysia to the United Nations in New York, Ramlan Bin Ibrahim; and the Permanent Representative of Senegal to the United Nations Office at Geneva, Mame Baba Cisse.

II. Mandate

2. The mandate of the Special Committee, as set out in General Assembly resolution 2443 (XXIII) and subsequent resolutions, is to investigate Israeli practices affecting the human rights of the Palestinian people and other Arabs of the occupied territories. The occupied territories are considered those remaining under Israeli occupation since 1967, namely, the occupied Syrian Golan and the Occupied Palestinian Territory, which comprises the West Bank, including East Jerusalem, and the Gaza Strip.

3. The present report is submitted pursuant to General Assembly resolution 70/87, in which the Assembly requested the Special Committee pending complete termination of the Israeli occupation, to continue to investigate Israeli policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, especially Israeli violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to consult, as appropriate, with the International Committee of the Red Cross according to its regulations in order to ensure that the welfare and human rights of the peoples of the territories, including prisoners and detainees, are safeguarded and to report to the Secretary-General as soon as possible and whenever the need arises thereafter. The present report covers the period from 11 August 2015 to 29 July 2016.

III. Activities of the Special Committee

A. Consultations with Member States in Geneva

4. The Special Committee held its annual consultations in Geneva on 21-22 March 2016 with Member States concerned with the implementation of General Assembly resolution 70/87. The consultations were held with a view to discussing the most pressing matters to be addressed in the Special Committee's report to the Assembly, and to gather information on recent developments on the political and human rights front. The Special Committee met with the Permanent Observer of the State of Palestine, the Permanent Representatives of Egypt, Jordan, Lebanon, the Syrian Arab Republic and Turkey and the Permanent Observer of the Organization of Islamic Cooperation. The Special Committee also met with the

Deputy High Commissioner for Human Rights, and the outgoing Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. A request to meet with the Permanent Representative of Israel to the United Nations Office at Geneva received no response. The Special Committee also followed the discussions under agenda item 7 of the Human Rights Council, entitled "Human rights situation in Palestine and other occupied Arab territories".

5. During the discussions, representatives of Member States expressed support for the work of the Special Committee, but also expressed concern about the worsening situation in the occupied territories, particularly in relation to the escalation of violence that started in the West Bank, including East Jerusalem, in September 2015. Member States also addressed, as a matter of concern, the lack of cooperation by Israel with human rights mechanisms established by the Human Rights Council, such as the work of the Special Rapporteur, and fact-finding missions or commissions of inquiry on the situation of the Occupied Palestinian Territory, including those of the Special Committee itself. The Permanent Representative of the Syrian Arab Republic reiterated the Government's invitation to the Special Committee to visit Damascus in 2016.

6. Key concerns raised by Member States included: settlement expansion; settler violence; exploitation of natural resources from settlements in the West Bank and Gaza and from the occupied Syrian Golan; the situation of detainees and deplorable conditions in detention centres; the refusal by Israeli security forces to release the dead bodies of Palestinians; administrative detention, including detention of children; excessive use of force and, in many cases, extrajudicial executions; punitive legislation adopted by Israel, for instance that which proposes that Palestinian families of alleged attackers should be deported to Gaza; the demolition of Palestinian homes and the forcible transfer of Bedouin and herder communities in the West Bank, including East Jerusalem; the blockade and lack of reconstruction in Gaza; and the general lack of accountability and remedies that accompanied all these violations.

7. The Special Committee was briefed on the main findings of the reports of the Secretary-General and the High Commissioner for Human Rights on the situation of human rights and settlements in the Occupied Palestinian Territory, which were presented at the thirty-first session of the Human Rights Council in March 2016. The Special Committee was also briefed about the conclusions of the addendum on implementation of the recommendations contained in the reports of the Independent Commission of Inquiry on the 2014 Gaza conflict and of the United Nations Fact-Finding Mission on the Gaza Conflict in 2009.

8. Concerns raised during the consultations helped to inform the Special Committee's annual field mission and were taken into consideration for the present report.

B. Field mission to investigate Israeli practices

9. The Special Committee wrote to the Government of Israel on 28 March 2016 requesting access to the Occupied Palestinian Territory and other Arab territories occupied since 1967. As in previous years, no response to the letter was received from Israel. The Special Committee was therefore unable to hold consultations with

the relevant Israeli authorities, or to gain access to the occupied territories within its mandate.

10. Because of increased insecurity in the region, the Special Committee was unable to visit either the Syrian Arab Republic or Gaza through the Rafah crossing. Instead, it convened meetings with civil society representatives, witnesses, representatives of Bedouin and refugee communities, Palestinian officials and United Nations representatives in Amman between 2 and 5 May 2016. In a few instances, where witnesses were unable to travel to Amman, especially from Gaza because they had been denied travel permits from Israel or from the occupied Syrian Golan, the Special Committee gathered testimony and received briefings by teleconference. The Special Committee expresses its sincere appreciation to all those who provided testimony and briefings on a wide range of issues related to human rights and humanitarian law.

11. On 6 May, at the end of its annual mission, the Special Committee released a press statement.[1] Documentation and other materials submitted to the Committee were carefully examined prior to the preparation of the present report and were archived by the Secretariat. Information contained in the report is primarily based on testimony and submissions received by the Special Committee in May 2016.

IV. Situation of human rights in the Occupied Palestinian Territory

12. Representatives of the United Nations and civil society based in the Occupied Palestinian Territory all expressed concern about the continuing Israeli policy of settlement expansion. The Special Committee was also informed that a combination of State-sanctioned land seizures, retroactive legalization of outposts,[2] demolition of Palestinian homes and livelihood structures, denial of Palestinian building permits, restrictions of movement and access to livelihoods, settler violence and the lack of accountability have all contributed to creating a coercive environment leading to the forcible transfer of Palestinian communities. Testimonies about the facts on the ground heard by the Special Committee in May have subsequently been confirmed by the report of the Middle East Quartet in July 2016, which identified these factors, among others, and raised questions about Israel's long-term intentions.[3] The United Nations Office for the Coordination of Humanitarian Affairs has called the settlements in the Occupied Palestinian Territory a key driver of humanitarian vulnerability. In general, there is a growing perception that the settlement expansion could undermine the prospects for a "two-State solution".

[1] Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19926&LangID=E.

[2] Outposts are settlement buildings considered to be illegal under Israeli law. All settlements are considered to be illegal under international law.

[3] The Middle East Quartet (the United Nations, the European Union, the Russian Federation and the United States of America) was established in Madrid in 2002 following the Madrid Peace Conference (1991) to promote mediation efforts with a view to resolving the Israeli-Palestinian conflict (see http://fmep.org/wp/wp-content/uploads/2016/07/Quartet-Report-2016.pdf).

A. Settlement expansion

13. Many examples of continuing illegal settlement expansion and activity in contravention of international law were highlighted in submissions to the Special Committee, particularly in the vicinity of the fast-growing Gush Etzion settlement bloc. In the nearby Palestinian community of Wadi Fukin, Israeli authorities have in recent years reportedly confiscated almost half the village land, including land used for agricultural purposes. According to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the Wadi Fukin community witnessed last year the bulldozing of their land, the destruction of two water wells and the issuance of a stop-work order on a donor-funded football field.

14. The Special Committee was also informed that work began in early 2015 on the first phase of a project to build 218 new settlement units for the expansion of Beitar Illit, an ultra-Orthodox settlement within the Gush Etzion settlement bloc. UNRWA also recorded several incidents of intrusions by armed settlers to the irrigation pools to intimidate Palestinian farmers working on private land. The Special Committee notes a persistent failure by the Israeli authorities to prevent or respond to settler attacks or to hold perpetrators accountable for their actions.

15. It was also emphasized in the submissions that, in early 2016, the Israeli Ministry of Defence announced the resumption of the construction of the separation wall in the part of Al Walaja village located in the Jerusalem municipality area unilaterally declared by Israel. The completion of the separation wall across Al Walaja would completely block off access to Palestinian farmland. Just two weeks before this announcement, it was reported that a tender had been issued by the Israeli Antiquities Authority for the construction of a visitor centre for the recently designated national park, on confiscated land belonging to the Al Walaja community. The Special Committee notes that residents living in the "Jerusalem section" of Al Walaja village have been subjected to multiple demolitions of residential structures and issuance of stop-work orders in 2016.

16. The Special Committee denounces the ongoing expansion of illegal settlement in the Occupied Palestinian Territory. At the time of writing the present report, in July 2016, Israel had issued tenders for 1,093 units in occupied East Jerusalem and the Gilo settlements. This was in addition to the recent advancement of plans for 531 units in Maale Adumim, 19 in Har Homa, 120 in Ramot, and 30 in Pisgat Ze'ev and the advancement of a plan to legalize retroactively an outpost near Ramallah. Israel also announced the issuance of tenders for 42 units in Kiryat Arba. The renewed and accelerated settlement activity has been denounced by the international community as systematically undermining the prospects for a two-State solution.

B. Demolitions and the obstruction of humanitarian assistance

17. Representatives from the United Nations and civil society also gave a comprehensive presentation to the Special Committee on the current trends of demolitions and evictions under Israel's restrictive and discriminatory planning and zoning regime in the occupied West Bank, including East Jerusalem. The unprecedented increase in obstruction of humanitarian assistance to the most vulnerable communities in Area C of the occupied West Bank, often based on their location in strategic priority areas for Israeli settlement expansion, was emphasized.

18. The Special Committee was informed that demolitions and confiscation across the occupied West Bank, including Area C, affected hundreds of Palestinian structures, including shelter, water and sanitation facilities, livelihood-related structures and community assets, in many cases provided by the international donor community, including the European Union.

19. The Special Committee was further informed that, in the first quarter of 2016, Israeli authorities demolished at least 871 homes or livelihood structures in the occupied West Bank, including East Jerusalem. This was reported as an unprecedented number of demolitions in such a short time, and the displacement figures by July 2016 had already exceeded the total number of displaced persons for the whole of 2015.[4] The monthly average number of structures demolished in 2016 in Area C of the occupied West Bank was almost three times higher than in 2015.[5] By July 2016, 981 Palestinians had been displaced from their homes in East Jerusalem and Area C in the occupied West Bank. This figure already exceeded the figure of 688 Palestinians displaced during 2015.

20. In the submissions, it was stressed that the humanitarian impact of these demolitions extended beyond the displacement of the Palestinian communities deprived of their shelter. It frequently destroyed their livelihood, increasing poverty and dependence on humanitarian aid. Children are at particular risk of a severe impact on their psychological well-being, resulting in emotional and behavioural problems that may last for months, with consequences for their educational achievement and school attendance.

21. The Special Committee recalls in this regard that Israel, as the occupying Power, has obligations to administer the Palestinian territory for the benefit of the protected Palestinian population,[6] in compliance with international humanitarian law and international human rights treaties applicable to the State of Israel, including the requirement to treat the protected population humanely at all times.[7] International humanitarian law sets out strict conditions under which the destruction of private property and relocation of the protected population may be lawful, related exclusively to military necessity or the security of the population.[8]

C. Forcible transfer in a coercive environment

22. UNRWA representatives highlighted the plight of some 46 Bedouin communities residing in rural areas of Area C in the occupied West Bank, who are at risk of forcible transfer by the Israeli authorities to three planned "townships" of Al Jabal West, Nweima and Fasayil.

23. The Special Committee heard that these sites were being developed with the express purpose of "regulating Bedouin" and finding a "solution to the population residing in the area of the Adumim Bloc — Western Road No. 1", and "the aim of

[4] See www.ochaopt.org/content/protection-civilians-weekly-report-19-25-july-2016.

[5] On average, 146 structures were demolished per month in Area C in 2016, compared with 55 structures per month in 2015 and 43 structures per month in 2014.

[6] This principle was affirmed in the Declaration of the Conference of High Contracting Parties to the Fourth Geneva Convention (17 December 2014).

[7] See Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, United Nations, *Treaty Series*, vol. 75, No. 973, art. 27.

[8] Ibid., arts. 49 and 53.

settling, permanently, those Bedouin who are there". The overwhelming majority of some 7,500 Bedouin at risk of being transferred are Palestinian refugees. The Special Committee noted that the relocation of Bedouin communities would pave the way for an expansion of illegal settlement construction in the Maale Adumim area on the Jerusalem periphery.

24. The Special Committee was informed that this process of forcible transfer would see pastoralist families forced into an urban environment, leading to a breakdown of their traditional economies and irreversibly damaging their distinct social fabric. The expectation was strongly expressed that the recent finalization of one of the alternative sites would accelerate the execution of pending demolition orders and the gradual relocation of Palestinian Bedouin communities.

25. Recent examples of the actions taken by Israeli authorities over the past year were listed in the submissions, such as multiple demolition and stop-work orders,[9] confiscations, the appointment of a retired brigadier-general of the Israeli Defence Force to act as "liaison" with the Bedouin communities and statements made to families encouraging them to move to the relocation sites.[10]

26. The Special Committee heard testimony from a Bedouin community representative from Abu Nwar[11] about the way his community had been targeted since April 2015 by the Israeli Civil Administration. According to the testimony, on 28 April 2015, the "liaison" official appointed by the Israeli Civil Administration informed the members of his community that they would be scheduled for full relocation, and that 34 families should sign up to the Al Jabal site within one month. The liaison official stressed that the Abu Nwar community would not be allowed by the Israeli Civil Administration to remain in its current location. The community representative indicated that the people rejected the proposal, calling for their right to return to their ancestral lands in the Negev and, pending that return, to remain in Abu Nwar, with planning solutions and services developed through community initiatives.

27. The Special Committee was informed that, despite the rejection by the Abu Nwar community of the proposal, 22 heads of affected households reportedly received a written invitation to a meeting with the Israeli Civil Administration on 22 July 2015 to discuss formally the details of the proposed relocation to the Al Jabal site. The invitations were issued together with 22 stop-work orders for residential structures. The residents did not attend the meeting upon the advice of

[9] Of the 46 Bedouin communities, 44 had a total of 1,281 demolition orders pending as of June 2016. Multiple homes are at risk of demolition in the communities of Abu Nwar and Jabal al Baba (in the controversial E-1 settlement area). Between January and March 2016, the Israeli Civil Administration demolished or confiscated at least 78 homes or livelihood structures of Bedouin communities (including ones financed by international donor-funded assistance) across Area C, causing at least 191 Palestinian Bedouins, including children, to be displaced (source: UNRWA submission to the Special Committee, June 2016).

[10] This is not the first time Bedouin communities have been subjected to transfer initiatives and relocated in connection with Israeli settlement construction or expansion. Between 1997 and 2000, 150 Jahalin Bedouin Palestine refugee families were transferred out of their rural kinship groups in the eastern Jerusalem periphery and concentrated into a single village, Arab al Jahalin.

[11] Abu Nwar is located in the southern part of the E1 Israeli settlement construction project.

their lawyers. In early August 2015, demolition orders were issued for the same 22 residential structures.[12]

28. The Special Committee learned that, on 6 January 2016, the Israeli Civil Administration entered Abu Nwar community and demolished five residential structures, as well as livelihood and other structures, leaving 26 Palestine refugees, including 17 children (4 of them with disabilities) displaced and without a home in the middle of winter. On 10 and 14 January, humanitarian materials donated by the international community as part of the post-demolition response were confiscated by the Israeli Civil Administration. It was reported that Israeli officials who attended the site to carry out the demolitions stated that "the Bedouin have an alternative place to go and they should move there".

29. On 13 January 2016, the a liaison official appointed by the Israeli Civil Administration visited the community and, it was reported, informed one of the affected household members that those moving first would receive two plots of land rather than one. The Special Committee understands that Israeli Civil Administration officials have reportedly denied making any new offers, but acknowledged they encouraged community members to move.

30. On 22 February 2016, the Israeli Civil Administration dismantled and confiscated the Abu Nwar Mixed Primary School and its equipment, funded by international donors, only a day after community members had completed the project. Four days later, two large tents donated by the State of Palestine as temporary classrooms had also been confiscated by the Israeli Civil Administration. According to the testimony, the school had intended to accommodate the 30 children already attending primary school in the kindergarten structures of the community.

31. In addition to the specific case of the Abu Nwar community, the risk of demolitions carried out by the Israeli Civil Administration, settler violence, intimidation and harassment have been identified as factors contributing to an increasingly coercive environment, particularly in Area C of the occupied West Bank.

32. Recent examples from the Khan Al Ahmar cluster of communities presented to the Special Committee included: settler vehicles entering the community school at night, parking their vehicles close to residential structures, shining full headlights onto the structures and throwing stones on the roofs; the use of unmanned drones flown low over the communities; placing community members under continued surveillance, which generates, in women in particular, a feeling of discomfort and shamefulness; and searches of community members' houses and trucks by private security guards from nearby settlements jointly with the Israeli police, in the presence of settlers.

33. The Special Committee notes that dozens of such incidents were reported elsewhere throughout the past year, contributing to an oppressive and "coercive environment" aimed at forcing out Bedouins, including Palestine refugees from

[12] Temporary injunction orders for these 22 demolition orders were secured in September 2015.

these communities, by giving them a "false choice" of either agreeing to relocate or risking becoming homeless.[13]

D. Escalation of violence in the occupied West Bank, including East Jerusalem

34. The Special Committee heard that the wave of violence across the Occupied Palestinian Territory, which began in late September 2015, had claimed the lives of over 100 Palestinians and dozens of Israelis, with many more on both sides affected by injuries.[14] According to the United Nations Office for the Coordination for Humanitarian Affairs, in 2015 there were 137 Palestinian fatalities recorded in the occupied West Bank and 24 in Gaza as a result of use of excessive force by Israeli security forces. On the Israeli side, there were 22 fatalities as a result of attacks by Palestinians in the Occupied Palestinian Territory, and 3 inside Israel. As at 18 July 2016, there were 67 Palestinian fatalities recorded in 2016 in the occupied West Bank and 7 Palestinian fatalities in Gaza caused by Israeli security forces. On the Israeli side, as at the same date, there were six fatalities as a result of Palestinian attacks in the Occupied Palestinian Territory and four fatalities inside Israel.

35. According to submissions made to the Special Committee, many of these incidents involved attacks reported to have been perpetrated by young Palestinians, mostly in the form of stabbings, against Israelis in East Jerusalem and Hebron in the Occupied Palestinian Territory, and in parts of Israel including Tel Aviv. A significant number of killings were also reported to have taken place in the context of clashes between Palestinians and Israeli security forces or security raids into the homes of Palestinians suspected of involvement in these attacks. In many cases, it was noted that the Israeli response may have amounted to excessive use of force, and that some incidents may be categorized as extrajudicial killings.[15]

36. Representations made to the Special Committee indicated that Israel's own military and law enforcement regulations state that live ammunition must be used only under circumstances of real and imminent mortal danger. However, in September 2015, the Israeli Security Cabinet approved the decision that the security forces were allowed to use lethal force "when they face danger to any lives" thereby effectively relaxing the rules of engagement for law enforcement forces. Civil society actors referred to the statement released by the Security Cabinet, which noted that: "until recently police would open fire only when their own lives were in danger. As of now, they will be permitted to open fire — and they will know that they have the right to open fire — when they face danger to any lives".[16] It was emphasized that the new regulations, which are not consistent with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, had led to a dramatic increase in the use of lethal force in unjustifiable circumstances. As of

[13] Forcible transfer in the context of occupation without the free, prior and informed consent of individuals is prohibited as a grave breach of the Geneva Conventions and raises concerns of forced eviction and destruction of private property, contrary to Israel's obligations under international human rights and humanitarian law.

[14] See www.ochaopt.org/content/protection-civilians-weekly-report-12-18-july-2016.

[15] See www.btselem.org/gunfire/20151216_cases_of_unjustified_gunfire_and_executions.

[16] See http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx.

the time of writing of the present report, the Israeli police had not published their full open-fire regulations, despite requests from non-governmental organizations.

37. The Special Committee viewed a number of videos of excessive use of force and cases of possible extrajudicial executions, including that of a Palestinian man, Abd al-Fatah al-Sharif, on 24 March 2016 in the occupied West Bank. The Committee was informed that, in this case, two Palestinian men, one of whom was Abd al-Fatah al-Sharif, allegedly stabbed and wounded an Israeli soldier at a checkpoint in the Israeli-controlled area of Hebron. Both were shot and killed during the attack.

38. In the video footage, Mr. al-Sharif was shown lying injured but still alive on the ground. Medical staff attended to the wounded soldier, who was driven away in an ambulance, but did not offer any medical assistance to Mr. al-Sharif. An Israeli soldier then shot Mr. al-Sharif in the head, killing him almost instantly as he lay on the ground, posing no apparent threat. The Special Committee was disturbed that none of the Israeli medical personnel or security forces at the scene paid any attention to the wounded man while he was still alive.

39. The Special Committee notes that the Israeli authorities subsequently launched an investigation into this case, detained the soldier involved in the shooting, and charged him with manslaughter. However, as of July 2016, this exceptional case was still in progress, with no conviction. In a number of submissions, concerns were expressed that the majority of similar incidents were not systematically investigated, leading to a general and persistent lack of accountability that continued to fuel the violence.[17] The Commission of Detainees and Ex-Detainees Affairs reported at least 17 separate cases of alleged extrajudicial executions carried out by Israeli security forces since October 2015.

E. Impact of the escalation of violence on Palestinian communities

40. In its submission, UNRWA noted that it had recorded an increase of 84 per cent in the number of live ammunition injuries from 2014 to 2015 in and around Palestine refugee camps. The situation in and around refugee camps in the occupied West Bank remains tense. Over 55 per cent of the live ammunition injuries in 2015 took place in the last quarter of the year, in two hotspots: the Shufat refugee camp and the Kalandia area. The Special Committee was informed that Palestinians, including children, had often been killed or injured during military incursions into refugee camps and during demonstrations, including many cases in which there was no apparent immediate threat to life.

41. Israel has an obligation to respect and protect the right to life, to comply with rules and standards governing the use of force by law enforcement officials and to investigate instances of excessive use of force by those officials. In cases where the use of force is unavoidable, Israeli security forces must seek to exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective

[17] The Committee Against Torture has stated that Israel should make more vigorous efforts to effectively prevent and sanction incidents of excessive force, including by ensuring that law enforcement and security officials are adequately trained in and comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (see CAT/C/ISR/CO/5, para. 33).

to be achieved, minimize damage or injury, and respect and preserve human life. The Special Committee notes that the use of firearms is permitted only in extremely limited circumstances, namely, in self-defence or defence of others against imminent threat of death or serious injury, and as a measure of last resort. Intentional lethal use of firearms is permitted only when it is strictly unavoidable in order to protect life.

42. The increasing use of tear gas as a method of crowd control in crowded areas and confined spaces, including refugee camps with limited ways of entry and exit, was also brought to the attention of the Special Committee. It is reported that gas canisters are frequently fired into, or fall into, UNRWA installations in camps, including schools, which as United Nations premises should be inviolable. In the first four months of 2016, there were 28 such incidents, with at least 197 tear gas canisters, stun grenades and other ammunition landing in UNRWA installations. One incident led to the hospitalization of a security guard employed by UNRWA.

43. The Special Committee also heard about the negative impact of the Israeli occupation on children's education in the occupied West Bank, including East Jerusalem, as a result of frequent military raids by Israeli security forces inside school premises during classroom hours, the arrest and detention of teachers and students and the intimidating presence of soldiers on roads near schools and at multiple checkpoints along the way to school.

F. Attacks on medical personnel and ambulances

44. Representations made to the Special Committee also highlighted incidents and attacks by Israeli security forces against medical personnel and ambulances in the occupied West Bank and East Jerusalem. Such cases included prohibiting ambulances from reaching Palestinian patients, holding up ambulances transferring Palestinian patients, directly shooting rubber and live bullets at ambulances, physically beating medical personnel and setting up checkpoints near hospitals and restricting access to them. These incidents were reported regularly — at times dozens of times every month — and have resulted in injuries to dozens of medical volunteers.

45. These testimonies were corroborated by a number of examples of video footage showing medical personnel being attacked in plain sight. The Special Committee noted with particular concern cases of Israeli security forces blocking ambulances from reaching injured Palestinians, and at times even attacking Palestinian medical personnel arriving at the scene of an incident to provide first aid. Such actions by Israeli security forces are, prima facie, in contravention of customary international law and the basic principles of the Geneva Conventions.

G. Retrieval of dead bodies

46. The Special Committee heard testimony relating to some 70 dead bodies of Palestinians who were killed in the context of alleged attacks against Israelis in the period since October 2015. These bodies were reportedly held by Israel for many weeks and months because of security concerns, denying the families proper and dignified closure. Many of the bodies had since been returned to the families, but it

was noted that, as of May 2016, the bodies of 18 Palestinians (including an unborn child) continued to be held by Israel (see CAT/C/ISR/CO/5, paras. 42 and 44).

47. It was further alleged that Israeli authorities had prohibited autopsies and that dead bodies were kept in poor and inhumane conditions, stacked on top of one another; this often resulted in bodies being disfigured, sometimes beyond recognition. According to the testimony, Israeli authorities refused the demands of the Palestinian families concerned to investigate the circumstances of the killings.

48. The Special Committee notes that, following the attack by two Palestinians from the occupied West Bank town of Yatta on 8 June 2016, in a shopping mall in Tel Aviv, which killed four Israelis and injured another seven, the practice of withholding dead bodies was reaffirmed by the newly appointed Defence Minister Avigdor Lieberman.[18] Palestinian families continue to be denied the right to conduct final religious rites with dignity.

H. Punitive demolitions

49. It was indicated in the submissions that the Palestinian families of alleged perpetrators of crimes, including Palestine refugee families, continued to face the risk of punitive demolitions since the Israeli Security Cabinet officially reinstated this policy on 14 October 2015.[19]

50. According to the Israeli Information Center for Human Rights in the Occupied Territories (B'tselem), since October 2015 Israel has demolished or sealed 37 homes to punish relatives of Palestinians who attacked Israelis or were suspected of such attacks, leaving 149 people homeless, including 65 children. Dozens more homes were measured in preparation for demolition, leaving 339 people, including 128 children, living under threat.[20] These figures include seven Palestine refugee residences demolished or sealed for punitive reasons in the occupied West Bank. In all seven of those cases, the alleged perpetrator of an attack or offence was either killed on site or held in detention but had not been convicted of an offence.

51. The Special Committee further notes that, while Israel justifies the practice by claiming it deters the commission of crimes targeting Israeli security personnel, civilians and others, the practice of punitive demolitions violates international law, including the prohibition on collective punishment, and must be rescinded.[21] The Special Committee regrets that the Supreme Court of Israel continues routinely to approve demolition orders.

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[18] See "Lieberman orders moratorium on returning attackers' bodies", *The Times of Israel*, 9 June 2016, available from www.timesofisrael.com/liberman-orders-moratorium-on-returning-attackers-bodies.

[19] The practice had been discontinued in 2005 on the recommendation of an Israeli military committee that found it ineffective.

[20] See www.btselem.org/ota?tid=170.

[21] The practice of punitive demolitions contravenes article 33(1) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, which prohibits collective punishment.

I. Lack of faith in the Israeli judicial system

52. Against the backdrop of the lack of systematic investigation into cases of apparent excessive use of force by Israeli security forces in the context of the escalation of violence since September 2015, and the lack of progress made on accountability in relation to the escalation of violence in Gaza in 2014, fears were expressed by numerous civil society organizations about what they described as "the faulty justice system" in Israel, and the dilemma they faced, namely whether or not to approach the existing Israeli justice system, civil or military, for redress.

53. Non-governmental organizations submitted information from their own tracking of criminal complaints submitted by Palestinians,[22] and also referred to the report of the United Nations High Commissioner for Human Rights of 7 March 2016 on implementation of the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict and of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/31/40/Add.1).

54. Civil society organizations also indicated in their submissions that they had sent a series of urgent letters to Israeli military and legal authorities, including the Minister of Defence, the Military Advocate General and the Attorney General, urging them to launch investigations into alleged war crimes committed by the Israeli army in Gaza.[23] However, the Special Committee was concerned to hear that the organizations had either not received responses about many cases or had been informed by the Israeli authorities that no investigation would be opened.

55. Civil society organizations stated that the Supreme Court of Israel issued a number of rulings in 2015 that negatively affected the human rights of Palestinians in the Occupied Palestinian Territory, casting further doubt about the accountability and the independence of the judicial system, civil or military, in Israel. It was stressed in the submissions that some decisions taken by the Supreme Court were brief, with no proper reasoning. Some of the examples of Supreme Court rulings presented before the Special Committee as having a negative impact on the human rights situation in the Occupied Palestinian Territory are briefly listed below:[24]

56. **Anti-Boycott Law**: in April 2015, the Supreme Court rejected a petition against the Law Preventing Harm to the State of Israel by Means of Boycott, 2011 ("Anti-Boycott Law"), which allows Israelis to sue individuals and groups who call for economic, cultural or academic boycotts of Israel's West Bank settlements or of Israel itself. It was emphasized that, in this case, the Supreme Court asserted that boycotts amounted to "political terror", ignoring the non-violent and legitimate nature of this act of freedom of expression and the efforts by many to use boycotts to pressure the State to end its military occupation and policies affecting the human rights of Palestinians.[25]

57. **Absentees' Property Law in East Jerusalem**: the Supreme Court approved the Government's policy of applying the Absentees' Property Law of 1950 in occupied East Jerusalem, thereby allowing the State to confiscate the properties of Palestinians in the city if the owners currently live in the West Bank. Israel

[22] See http://mezan.org/en/uploads/upload_center/kiWkMhPrY1Zx.pdf.
[23] See www.adalah.org/en/content/view/8304.
[24] See www.adalah.org/en/content/view/8710.
[25] See www.adalah.org/en/content/view/8525.

"annexed" East Jerusalem following its occupation of the city in 1967, and has since pursued a policy of geographical, social and political separation from the occupied West Bank. It was submitted that the purpose of the confiscations was to facilitate further building of Jewish settlements on occupied territory.[26] The Special Committee raised concerns about this law in its 2015 report to the General Assembly (see A/70/406, paras. 47-49).

58. **Banning higher education for prisoners**: in April 2015, the Supreme Court accepted the position of the General Security Service and dismissed a petition against the ban on Palestinian prisoners, classified as security prisoners by the Israel Prison Service, from pursuing higher education in prison. The Court ruled that the distinction between criminal and security prisoners, the vast majority of the latter being Palestinian, was "legal and legitimate", and that denying education to security prisoners was proportionate and reasonable.[27]

59. **Banning family unification for Palestinians from Gaza**: in June 2015, the Supreme Court dismissed a petition by Hamoked, an Israeli non-governmental organization, against a government decree that ordered the Israeli Interior Ministry not to approve requests for Palestinian family unification in Israel if one of the parents or spouses was from Gaza. The decree treats all civilians from Gaza as a security threat in a sweeping and discriminatory manner, instead of dealing with individuals on a case-by-case basis. The decree also gravely violates the right to family life. The Court justified its decision on the basis that the security conditions in Gaza had not changed, and therefore the Government did not need to change its policy.[28] The Special Committee heard that the Legal Centre for Arab Minority Rights in Israel (ADALAH) had previously argued two petitions before the Supreme Court regarding the constitutionality of the ban on Palestinian family unification in Israel, and that the Court had upheld the ban in 2006, along with new amendments to the Citizenship and Entry into Israel Law (Temporary Provision) in 2012.[29]

60. **Home demolitions as collective punishment**: in November 2015, the Supreme Court rejected a petition to reconsider its decision to allow the Government's policy of demolishing the homes of families of Palestinian individuals who were suspected, accused or convicted of carrying out attacks against Israel or its citizens.[30] Civil society organizations noted that the decision allowed the State to carry out demolitions as a punitive and retaliatory measure, which amounted to collective punishment. Civil society organizations considered the policy to be a severe violation of international humanitarian and criminal law.

Failure of the Israeli military law enforcement system

61. In a major decision, a leading Israeli non-governmental organization, B'tselem, announced in May 2016 that it would no longer file complaints to the

[26] See www.adalah.org/en/content/view/8530.

[27] See www.adalah.org/en/content/view/8528.

[28] See www.hamoked.org/Document.aspx?dID=Updates1501.

[29] See "Adalah case review: the Israeli Supreme Court's decision in the citizenship and family unification law case", *Adalah's Newsletter*, vol. 91 (March 2012). Available from www.adalah.org/uploads/oldfiles/newsletter/eng/mar12/docs/Case%20Review%20Citizenship%20Law%20English.pdf.

[30] In July 2016, the Supreme Court rejected another appeal against the home demolition orders affecting the families of two Palestinians accused of carrying out a deadly attack in Tel Aviv in June 2016.

Israeli military's law enforcement system. B'tselem explained that, since the second intifada in late 2000, it had demanded investigation in 739 cases in which Israeli soldiers killed, injured or beat Palestinians, used them as human shields or damaged their property. According to B'tselem, in around a quarter of these cases (182), no investigation was undertaken, while in half of them (343) the investigation was closed with no further action taken. Charges were brought against implicated soldiers in only 25 cases; another 13 cases were referred to disciplinary action. B'tselem stated that 132 cases were still at various stages of processing, and the Military Advocate General's office was unable to locate 44 complaints.[31]

62. B'tselem reported that, over more than 25 years, it had gathered information on hundreds of cases filed with the military law enforcement system. In addition to the vast amount of information collected to process these cases, B'tselem had received scores of investigation papers from the military police investigation unit. The organization claimed that it has also met with officials of the military law enforcement system numerous times over the years, and corresponded with the Military Advocate General Corps and other military officials. B'tselem argued that it was the sum of this knowledge gained through these interactions that served it as the basis for pointing out the structural failures that, despite the capacity of the Israeli military law enforcement system to process a sizeable caseload, meant that it closed the vast majority of cases without any further action.

63. B'tselem stated that, while changes had been made to the military law enforcement system, they served mostly to reinforce the impression that efforts were being made to get to the truth, and did not resolve the system's substantive problems.

64. In light of the decision of B'tselem and similar views heard from other experienced civil society organizations based on years of interaction and solid data, the Special Committee fears that the separation of powers between the judiciary and executive branches in Israel is increasingly narrowing, potentially affecting the independence of the judiciary and the decisions of the courts in Israel. The Committee is also of the opinion that information received casts doubt on the ability of the domestic accountability mechanisms in Israel to bring any measure of justice to the victims of human rights and humanitarian law violations.

J. Threats and intimidation against human rights defenders

65. The Special Committee was also briefed on the threats and intimidation faced by human rights defenders in the Occupied Palestinian Territory and in Israel. These intimidations and threats have taken different forms, including restrictions on or denial of freedom of movement, threatening phone calls and e-mails, and death threats in extreme cases.

66. In one emblematic case, a Palestinian human rights non-governmental organization in Ramallah, Al-Haq, has been a target of a series of threats of attacks and a smear campaign since September 2015. It was noted that the level of threats against Al-Haq escalated in February 2016, taking the form of threatening anonymous e-mails, hacking of e-mail accounts, anonymous letters and phone calls and Facebook posts.

[31] See www.btselem.org/publications/summaries/201605_occupations_fig_leaf.

67. The Special Committee also noted that anonymous letters had been sent to Al-Haq's European donors, containing allegations against the administration of the organization. It was alleged that the purpose of the threats was to undermine the organization and to convince their partners and donors not to support them.

68. In another case, on 1 November 2015 the Israel Defense Forces declared the area around the headquarters of a Palestinian non-governmental organization, Youth Against Settlements, a closed military zone. The order was renewed regularly until May 2016. It was, however, reported that, in the light of numerous public campaigns for the lifting of the order, it was not renewed in May 2016.

69. It was reported that, for many years, Youth Against Settlements ran the annual "Open Shuhada Street" campaign, with speaking tours in a number of European countries. It was claimed that the international attention the tour received infuriated the Israeli authorities, and that the final event of the campaign, a peaceful protest held on 26 February 2016 in Hebron, was put down violently, despite the peaceful nature of the protest. It was also alleged that a Youth Against Settlements coordinator was arrested on several occasions during these months. The Committee believes that these allegations raise serious concerns about threats and intimidation of human rights defenders working on human rights issues in the Occupied Palestinian Territory.

K. Situation of Palestinian detainees

70. In 2016, Palestinian officials and civil society again drew attention to Israel's detention of thousands of Palestinians, including children, and raised alarm about the steadily increasing numbers of detainees held in 18 prisons, military camps and detention centres inside Israel, in contravention of international humanitarian law. The Committee was informed that, as of April 2016, there were an estimated 7,000 Palestinian detainees, including 450 children and six elected members of the Palestinian Legislative Council. It was noted that an estimated 700 Palestinians were held in administrative detention, including women and children. The overall number of Palestinian detainees in 2016 already exceeds the numbers recorded in 2015 (see A/70/406, paras. 50-57).

71. The Special Committee notes that dozens of Palestinian detainees have again taken to hunger strikes in 2016 to protest Israel's continued practice of administrative detention, notably in solidarity with Bilal Kayed,[32] who had been on hunger strike for over 70 days at the time of writing of the present report. Mr. Kayed has been consuming only water, and it is reported that his health has seriously deteriorated.

72. On a related issue, civil society representatives noted the unsuccessful implementation of the controversial force-feeding bill adopted by the Knesset last year because of the refusal to cooperate by Israeli doctors and the Israel Medical Association.

[32] Bilal Kayed was arrested in 2001 and sentenced to 14.5 years in prison. He was placed in isolation in Rimon prison in September 2015, until his scheduled release on 13 June 2016. The Israeli Government then issued a six-month administrative detention order on the day of his scheduled release.

73. Concerns were also raised in the submissions about punitive measures inside detention centres imposed on Palestinian detainees, such as prevention of family visits, cutting off power and alleged torture and ill-treatment, including the use of police dogs inside prisons, and deliberate medical neglect resulting in deaths among detainees which could have been avoided.

74. The year 2015 reportedly witnessed a remarkable rise in the number of Palestinians detained on the basis of their activities on social media. It was reported that, since October 2015, 150 Palestinians had been detained for the "crime" of posting incendiary comments on Facebook and other media; this raises concerns about restrictions placed by the Israeli authorities on freedom of expression and opinion.[33]

75. Representations from civil society highlighted harmful changes to legislation affecting children, including a penalty for stone-throwing of up to 20 years' imprisonment in certain cases. Concerns were expressed about the Israeli practice of "home detentions", particularly affecting children in East Jerusalem and mostly imposed for alleged stone-throwing offences. In 2015, Israel reportedly issued 60 home detention orders against children, effectively placing them under house arrest and appointing a family member to act as a guardian to enforce the house arrest, limiting the child's ability to pursue education or health care.

L. Human rights situation in Gaza

76. Civil society organizations stressed in their submissions that the continuing land closure and naval blockade by Israel in Gaza, now entering its tenth year, constituted a form of collective punishment of the civilian population that directly contradicted Israel's obligations under international humanitarian law and its responsibilities as the primary duty-bearer to meet the needs of a protected population under occupation.

77. Two years after the most recent devastating conflict, the Special Committee was informed that donor pledges made at the International Conference on Palestine and Reconstructing Gaza in 2014 had not been fulfilled, and that an estimated 85,000 people remained displaced as a result of Israel's destruction of homes.[34] Meanwhile, thousands of children suffer from the psychosocial consequences of experiencing repeated trauma in hostilities.[35]

78. Briefings on Gaza's economic performance all pointed to chronic "de-development" over the past nine years. In 2015, real gross domestic product in Gaza was 20 per cent lower than in 2005, and per capita income was 30 per cent lower compared with the same year. There appear to be no other variables that could explain these developments other than the blockade and the toll taken by recurrent conflicts. Daily power outages of up to 12 hours' duration also continue to affect households, businesses and public services across Gaza. The lack of electricity

[33] See Commission of Detainees and Ex-Detainees Affairs, *War Crimes and Crimes against Humanity toward Palestinian Detainees in Israeli jails* (Ramallah, 2016).

[34] An estimated 500,000 people were displaced at the peak of the conflict (see A/HRC/28/45, para. 14).

[35] There have been three major escalations of hostilities between Israel and Palestinian armed groups in Gaza in seven years: December 2008-January 2009, November 2012 and July-August 2014.

means that families are unable to refrigerate food and wash clothing; children are unable to study in the evenings without light; and businesses, hospitals and water facilities incur tremendous costs to maintain generators.

79. The Special Committee notes that, in the absence of free access to natural end markets in Israel and the occupied West Bank, the private sector in Gaza has been forced to restructure inwards, focusing on non-tradable goods and service activities and transforming the Gaza economy from a productive, export-driven economy to a consumption, demand-driven economy. The Committee was informed that the local economy had stayed afloat through a constant expansion of the public sector which, according to the latest data, today accounts for the largest share of Gaza's gross domestic product. It was stressed in the submissions that Israeli military incursions and the often-violent enforcement of the extensive access-restricted areas along the land and sea borders of Gaza resulted in killings and injuries, as well as confiscation and destruction of boats and fishing equipment. As a result, such Israeli practices continue to prevent the cultivation of significant tracts of fertile agricultural land and severely hamper the livelihoods of thousands of fishermen and their families.

80. Civil society representatives noted that the Gaza reconstruction mechanism brokered by the United Nations resulted in some success in bringing much-needed materials into Gaza, but that Israel's exercise of full control of and restrictions over imports and exports, including Israel's prohibitive "dual-use list",[36] meant that Palestinians living in Gaza could not exercise their right to development. According to civil society organizations, these restrictions have a "chilling effect" on project development. In April 2016, Israel temporarily suspended the import of cement for private projects after it had accused the authorities in Gaza of diverting cement for the construction of underground tunnels built to attack Israel.[37] Some representatives expressed their frustration by calling into question the legitimacy of the Gaza reconstruction mechanism, claiming that "it is only legalizing the blockade" imposed since June 2007.

81. It was noted in the submissions that Gaza's hardship extended to every aspect of life — education, unemployment, gender-based violence, shelter, water and sanitation — and had an impact upon ordinary citizens. The chronic lack of construction materials due to the closures has resulted in over 400 schools running on double shifts to accommodate all students. Early in 2016, unemployment in Gaza stood at 38.4 per cent, with youth and women's unemployment at a staggering 60 per cent and 84 per cent, respectively. The Special Committee also heard concerns about the lack of women's participation in reconstruction committees in Gaza.

82. Civil society representatives noted that there were very few prospects for youth in Gaza of finding a decent job, even with a university degree. Violence against women in Gaza occurred at nearly double the rate in the occupied West Bank. Almost 60 per cent of children in Gaza were reportedly exposed to violence in the home. Concerns were also raised about the rising suicide rate among youth in

[36] Israel's "dual-use list" includes most building materials and basic civilian materials such as wood, welding rods and medical equipment, going well beyond recognized international norms (see www.wassenaar.org).

[37] See "Israel suspends cement deliveries to Gaza's private sector", *The Jerusalem Post*. Available from www.jpost.com/Arab-Israeli-Conflict/Israel-suspends-cement-delivers-to-Gazas-private-sector-450234.

a conservative society where suicide is considered a crime, reflecting the desperation and loss of hope resulting from the blockade and the Israeli occupation.

M. Energy dependence and exploitation of natural resources

83. Officials from the Palestinian Energy Authority and civil society organizations briefed the Committee on the reasons Palestine finds itself in a "state of energy dependence", despite the confirmed presence of natural oil and gas resources in the Occupied Palestinian Territory, notably off the coast of Gaza, but also in the occupied West Bank.[38]

84. In terms of electricity generation, it was noted that the Israel Electric Corporation owns the electricity grid in the West Bank and supplies 95 per cent of its electricity. Similarly, in Gaza two thirds of the electricity supply comes from Israel through feeder lines maintained by the Israel Electric Corporation and the Gaza Electricity Distribution Company. The only power station located inside Gaza operates partly on diesel fuel purchased by the Palestinian Authority from the Israeli Paz oil company refinery based in Ashdod.

85. Palestinian officials once again referred to the 2012 report entitled "Gaza in 2020: A liveable place?", of the United Nations country team in the Occupied Palestinian Territory, and asserted that, should current trends continue, Gaza was getting closer every year to the projections of the United Nations country team that Gaza may no longer be a liveable place by 2020.

86. The Special Committee heard that, while Israel had nearly full control and monopoly over power supplies to the Occupied Palestinian Territory, it had also deliberately denied Palestinians their right to permanent sovereignty over their natural resources and their right to development.

87. One example brought to the attention of the Special Committee was that of the two wells in the Gaza Marine zone drilled in 2000 by British Gas Group under an exploration licence granted by the Palestinian Authority. Notwithstanding the discovery of substantial reserves in the Gaza Marine zone, reportedly estimated at 1.4 trillion cubic feet, the two wells have remained undeveloped and unexploited for over 16 years as a result of Israeli objections to the development of either gas pipelines for export to Egypt, or an onshore processing terminal with a view to supplying gas to Israel.

88. It was further noted that the enforcement by Israeli security forces, often with excessive use of force, of the "access-restricted area" extending 6 nautical miles off the shore of Gaza had not only had a detrimental impact on the livelihoods of Palestinian fishermen and their families, but had also ensured that Palestinian oil and gas resources remained undeveloped. It was recalled by Palestinian officials that past negotiations with Israel to delineate its exclusive maritime economic zone had achieved nothing, as Israel declared "closed areas" to protect its own gas platforms. According to Palestinian officials, Israel had employed similar strategies of preventing Palestinian access to potential oil fields in the occupied West Bank,

[38] Part of the Meged oil fields (estimated 100 million barrels of oil) rests on the Green Line demarcating the Israeli town of Rosh Haayin and the West Bank Palestinian village of Rantis. See Susan Power, *Annexing Energy: Exploiting and Preventing the Development of Oil and Gas in the Occupied Palestinian Territory* (Ramallah, Al Haq, 2015).

namely near the Palestinian village of Rantis (adjacent to the Israeli Meged 5 oil field), through the designation of areas as military training zones and the construction of the separation wall.

89. The Special Committee is aware of recent media reports suggesting that progress has been made in negotiations to lay a pipeline supplying gas from the Leviathan gas fields off the coast of Israel to Gaza.[39] If such a deal is implemented, the Committee is of the view that, notwithstanding the short-term benefits for Palestinians in Gaza, it may further delay the development of Palestine's own natural gas reserves and perpetuate its state of energy dependence. The Committee notes with concern reports that Israel has for years unilaterally exploited offshore natural gas reserves at the Noa and Mari-B fields straddling the border with Palestinian waters at 13 nautical miles from the Gaza coast (through leases to the United States-based company Noble Energy), for its own benefit.

V. Human rights situation in the occupied Syrian Golan

90. Civil society organizations presenting information on issues related to the occupied Syrian Golan raised a number of serious concerns, including Israel's discriminatory and illegal policies towards the Syrian population; the continued deployment of landmines and the presence of Israeli army bases in and around Syrian residential and civilian areas; the construction and expansion of settlements in the occupied Syrian Golan; the forcing of a new curriculum and education system on Syrians; and recent statements by Israel that it exercises sovereignty over the occupied Syrian Golan.[40]

91. Representations were made that discriminatory land, housing and development policies by Israel have meant that existing Syrian residential areas are densely populated, as horizontal expansion on surrounding land has not been allowed by the Israeli authorities. It was mentioned that Israel seeks to expropriate land owned by the Syrian population by declaring it as green areas, vital areas for public benefit or State land, in order to prevent the Syrian population from using it for construction, farming, grazing or other purposes. These policies, it was alleged, not only have an adverse effect on available housing, they also severely inhibit the improvement of road and sewerage systems, the construction of educational, health and cultural institutions and the establishment of infrastructure for industrial areas for the benefit of the Syrian population.

92. Civil society organizations alleged that, for many years now, Israel had used vast areas of land in the occupied Syrian Golan for military training and bases, leaving behind substantial numbers of landmines, which sometimes resulted in the loss of innocent civilian lives. The Committee heard that numerous landmines had been laid in and around Syrian villages under the pretext of security.

93. The Committee heard that, since the occupation of the Syrian Golan, a new curriculum and school system had been forced on the Syrian population. It was alleged that these changes in curriculum sought to "diminish" Syrian identity and

[39] See "The Ministry of National Infrastructure, Energy and Water Resources has authorized the sale of 0.25-0.4 BCM a year", *Globes*, 3 March 2016. Available from www.globes.co.il/en/article-israeli-govt-to-allow-gas-exports-from-leviathan-to-gaza-1001108009.

[40] See http://mfa.gov.il/MFA/PressRoom/2016/Pages/Cabinet-communique-17-April-2016.aspx.

culture as well as the civilization and history of the local community. Furthermore, it was alleged that the Israeli curriculum did not currently facilitate Arab cultural activities and that the Syrian population had little say in how its educational institutions are run and what Syrian children are taught.

94. According to information received by the Committee, Israel continues to explore and exploit natural oil resources from the occupied Syrian Golan through Afek, an Israeli subsidiary of the United States-based company, Genie Energy, as previously reported by the Committee (see A/70/406, para. 25).

VI. Recommendations

95. **The Special Committee calls upon the Government of Israel:**

(a) To implement all prior recommendations contained in the reports of the Special Committee to the General Assembly, and to facilitate access by the Special Committee to enter the Occupied Palestinian Territory;

(b) To end its occupation of the West Bank, including East Jerusalem and Gaza, as well as the occupied Syrian Golan, in compliance with Security Council resolutions 242 (1967) and 497 (1981);

(c) To lift the illegal land and sea blockade imposed on Gaza for the past nine years and open up opportunities for trade and increasing movement of Palestinians between Gaza and the West Bank;

(d) To cease all settlement activity and construction of the separation wall in the occupied West Bank, including East Jerusalem, which contravenes international law and undermines the right of self-determination of the Palestinian people;

(e) To immediately stop demolitions pending the introduction of a planning and zoning regime that fully complies with international law and the rights of the Palestinian people. All Palestinians in Area C, including Palestine refugees, must have access to a fair and participatory planning and zoning system that is designed to advance the interests and address the needs of the protected population;

(f) To take all measures to prevent violence perpetrated by settlers, including attacks or harassment against Palestinians and their property, contributing to the creation of an unsustainable living environment, and ensure that such incidents are investigated and those responsible held accountable for the crimes committed;

(g) To take all necessary precautionary measures to ensure that civilians are not harmed during military incursions into and around Palestine refugee camps, including by planning and conducting such operations in a manner that safeguards human life and the safety of the protected population and ensuring that Israeli security forces act proportionally and with restraint in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(h) To rescind all demolition, eviction and seizure orders that are likely to lead to the forcible transfer of Bedouin communities in the occupied West

Bank, which affects their pastoralist lifestyle, leading to the breakdown of their traditional economies and damaging their distinct social fabric;

(i) To facilitate access to medical treatment for injured Palestinians in the Occupied Palestinian Territory;

(j) To systematically investigate all cases of rampant and excessive use of force that have led to death or serious injury;

(k) To conduct a prompt, thorough, transparent and independent investigation into all cases of alleged extrajudicial executions and ensure that those responsible are brought to justice;

(l) To ensure the protection necessary for the Palestinian civilian population and human rights defenders engaged in the promotion of human rights issues affecting the Occupied Palestinian Territory and allow them to carry out their work freely and without fear of attacks and harassment;

(m) To fully investigate attacks and threats against human rights defenders and ensure that those responsible are held accountable;

(n) To release the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible in order to bring dignified closure in accordance with their religious beliefs and traditions;

(o) To end the practice of punitive demolitions of Palestinian homes in the occupied West Bank and East Jerusalem, which is inhumane, has no deterrent effect and constitutes a form of collective punishment prohibited under international law;

(p) To enable Palestinians and other Arabs to develop and exploit their oil and natural gas reserves, including in offshore locations within the territories occupied since 1967, and halt the exploitation of Palestinian resources.

96. The Special Committee also calls upon the international community:

(a) To ensure that financial pledges made by donor countries in Cairo for the reconstruction of Gaza are honoured and urgently disbursed so that the humanitarian situation is eased;

(b) To use its influence to end the blockade of Gaza, which has a significant detrimental effect on Palestinians;

(c) To review national policies, legislation, regulations and enforcement measures in relation to business activity to ensure that they effectively serve to prevent and address the heightened risk of human rights abuses in conflict-affected areas;

(d) To ensure that corporations respect human rights and cease to fund or enter into commercial transactions with organizations and bodies involved in settlements or exploitation of natural resources in the occupied Palestinian and Syrian territories;

(e) To give effect to its legal obligations, as contained in the 2004 advisory opinion of the International Court of Justice, on the wall;

(f) **To address Israel's long track record of non-cooperation with the United Nations, in particular regarding the implementation of resolutions of the General Assembly and the Security Council and mechanisms established by the Assembly and its subsidiary bodies.**